

York Planning Board
October 25, 2023 – 7:30 pm
Public Hearing & Meeting

Present: Joe McIlroy, Dave Dermody, Alan Brightman, Chris Wall

Others: Donna Falkner, Jim Campbell, Esq., J.R. Bagshaw (jrbagshaw@outlook.com), Carl Peter

Mr. Campbell read the ad:

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, October 25, 2023 for the purpose of considering public opinion and comment about or concerning the following:

A request by Mark Cole and J.R. Bagshaw of York Milling & Grain for preliminary and final site plan approval to install a new 125 ft. grain elevator at 2907 York Road East, York, # 41-1-67.

A copy of the application materials and other relevant submissions are available for review by the public at the office of the Town Clerk during regular Town Clerk hours and will be published on York's website.

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

Dated: September 28, 2023

By Order of the Planning Board of the Town of York

Donna K. Falkner

Planning Board Clerk

7:15 pm – Chairman McIlroy opened the public hearing and read the letter from the county.

From: County Planning Board/Livingston County
To: "Planning/Zoning Clerk" <planningzoningclerk@yorkny.org>
Cc: abpierce4@gmail.com
Date: 10/02/2023 08:41 AM
Subject: Re: County referral
Sent by: Stephanie Johnson

Good Morning,

We have received Zoning Referral #2023-089 in accordance with the provisions of Section 239-l and m of the NYS General Municipal Law.

The Livingston County Planning Department has reviewed this application and, in consultation with the Town of York County Planning Board representative, 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.

I have attached a copy of the Final Action Notification form for you to fill out and return to our office once the Town has made their final determination on this referral.

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

Thank you,

Stephanie Johnson
Administrative Secretary
Livingston County Planning Department

Mr. McIlroy asked if there was any public comment.



10/24/23

To The Town of York, NY Planning Board Members,

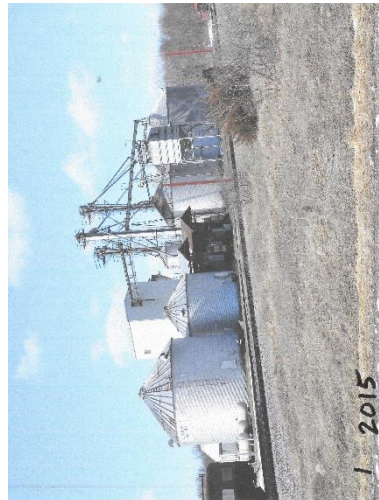
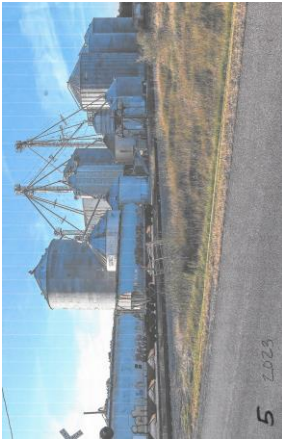
I have the following concerns, comments, and questions to be considered at the public hearing on 10/25/23 for the York Milling & Grain preliminary site plan and final site plan approvals.

- Under section 1103 paragraph B states all of the items from a checklist that shall be on the preliminary site plan. On the drawing for this site there is no title, no name of preparer of the drawing, no property lines to scale, no date, no mention of the natural stream located directly west of this property, no property lines for the railroad, no mention of the drainage plan from this facility, no scale on the drawing so difficult to determine if more than one acre is being disturbed.
- With the addition of the bins on the application, this is about 620,000 bushel additional storage space, which will come in mostly by trucks. This additional truck traffic will mostly come to the site through the center of York residential area and the last stretch traveling on York Rd. east with no sidewalks for pedestrians to walk on. Pedestrians and large trucks in the same space (the street) is unsafe. The Town of York code is designed to protect the health, safety, and welfare of the community. Will the planning board do the right thing for the community with sidewalks and buffers?
- At the site currently there are several parts to this project already done. Including the I-beam anchors for the proposed grain elevator, concrete foundations, concrete pads, and drainage tile, driveways, scale relocation, etc. How is this able to be done without final site plan approval or a permit?
- With the increase of trucks with heavy loads, has the town highway superintendent been contacted and how will taxpayers be protected

from additional road repairs and maintenance if caused by these said trucks?

- Under section 804 paragraph A 7a,7b,7c is a list of all items that are to be shown on the drawing to scale. Some of these items are dimensions and heights existing buildings and structures. What is the height of the 3 grain elevators currently erected? Some or all of these elevators are not in the same location or the same height as they were when this property was purchased by the current owner. How can this be done without permits and /or a variances? I have enclosed photos to consider and study.

Kirk Richenberg



Mr. Campbell said that Mr. Richenberg's letter indicates that the application materials may be deficient as they do not comply with the Town's Zoning Code section 1103 B., which contains a checklist of items that are typically required for the Site Plan review process. Mr. Campbell

further stated that it is not uncommon that communities have such a checklist and that often a municipality also has code provisions that allow the Code Enforcement Officer or Planning Board to waive certain items on such checklists as being unnecessary. The Town of York Zoning Code, in section 1102 A., allows the Code Enforcement Officer or the Planning Board to waive certain application items that are on the checklist in section 1103.

Mr. Campbell stated that the Planning Board needs to determine if the application contains adequate information to allow the Board to make a thorough review and reasoned determination on the application.

Mr. McIlroy said there are no sidewalks on side roads.

Mr. Wall – don't they need engineered drawings?

Mr. Campbell – CEO Peter and the Planning Board have the discretion to determine what needs to be on a Site Plan application. Don't necessarily need engineered and signed/stamped drawings for every application.

Mr. Dermody asked if the board should make a motion regarding policies regarding application requirements for Site Plans? He is concerned that sometimes requiring certain application materials and other times not requiring the same materials might appear to be arbitrary.

Mr. Campbell said the code is the policy. The key to avoiding the appearance that something like that is arbitrary is that the Code Enforcement Officer and/or the Planning Board should discuss all Site Plan applications to determine if they provide enough information for a thoughtful and appropriate review. Some Site Plan applications do not require a high level of technical information, for example topographical maps with elevation contours.

Mr. Peter – for the present application, some items on the check list were not provided, like the distance from the grain elevator to property line, which CEO Peter didn't think was necessary because it was already included in the last Site Plan application when the grain bins were put up, all within the same area.

Mr. Dermody – should we as a board make a determination of whether or not we should have stamped drawings. He prefers generally to have stamped engineered drawings.

Mr. McIlroy – The Planning Board and/or the Code Enforcement Officer having discretion makes sense because if someone wants to put up a storage shed, do we want to require them to have engineered drawings which may cost more than the storage shed?

Mr. Wall agreed with Mr. Dermody on stamped drawings. Mr. Peter – previous decision on Hillcrest whether or not to get a stamped drawing.

Mr. Campbell – The general process for Site Plan is that an application comes to Mr. Peter who initially decides whether or not the application is complete. If you do not believe you have enough information to proceed with this application, you can defer the application to another meeting before completing your review and the applicant can be asked to provide more information.

Mr. McIlroy stated that it was discussed at the last meeting that they have to keep the trucks off the road.

Mr. McIlroy said there are no sidewalks on side roads and that the truck traffic mentioned by Mr. Richenberg is not a concern because this is a light-industrial site and the fact that the applicant will keep trucks from queuing on the road by looping them through the back of the property.

Mr. Campbell stated that Mr. Richenberg also stated in his letter that the current application does not comply with various provisions of section 804 of the Zoning Code. Mr. Campbell explained that section 804 relates to “zoning permits” which is defined in section 204 of the Code as “An official finding that a planned use of property, as indicated by an application, complies with the requirements of this Chapter or meets special conditions of a variance or special use permit.” This does not apply to the discussion regarding Site Plan approval. Additionally, section 804 specifically states that Article XI governs Site Plan applications.

Resolution:

7:30 pm Mr. Brightman moved to close the public hearing, Mr. Wall seconded, carried.

Ayes – 4

Nays - 0

Mr. McIlroy opened the Planning Board meeting and led the pledge. Mr. McIlroy said he wouldn't think it fair to not proceed with Applicant's Site Plan request tonight, as CEO Peter has determined the application to contain the needed information to decide this issue.

Mr. Peter said the Planning board can always decide they want more on the site plan after he accepts the application.

Mr. Campbell said that going forward the Planning Board can review the sufficiency of applications for Site Plan during a sketch plan conference.

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Mr. Wall – can we have a condition for providing a stamped engineering drawing after approval?

Mr. Campbell – IS not comfortable with doing that since it has already gone to the County for review under General Municipal Law 239m.

Mr. Wall – I'm not convinced whether a stamped engineering drawing is needed or not.

Mr. Campbell – It is his opinion that on any complicated Site Plan review, especially involving larger commercial, light industrial uses, significant subdivisions or large building construction, the Planning Board should require stamped engineering drawings, but not necessarily on small Site Plans requests. Also, Site Plan approval is not required in typical single family or two-family residential situations.

Mr. Wall – how do we know distance, etc. or if structurally sound with anchors and cables?

Mr. McIlroy – it's never going to fall 125 ft – there are 10 ft. sections. Main rail is 125 ft. from elevator and Mr. Peter said it would have to fall over a bin.

Mr. Campbell – The Planning Board is not approving the engineering attributes of the grain elevator, just its placement on the site. The applicant sought approval without stamped engineering drawings regarding the structural components. If the Board is concerned about potential liability associated with not having stamped drawing by a licensed professional engineer, the Board can require an Indemnification Agreement be signed by applicant that protects the Town by making applicant obligated to indemnify and hold the Town harmless from any liability should something happen with the grain elevator and a liability occurs.

Mr. Brightman – thinks that would be good.

Mr. Wall – asked if it was put up by professionals.

Mr. Bagshaw said yes, and they also did core samples before the original went up.

Mr. McIlroy asked for a motion to approve last month's minutes.

Resolution:

Mr. Dermody moved to approve the September 27, 2023, minutes, Mr. Brightman seconded, carried.

Ayes – 4

Nays – 0

Mr. Campbell proceeded with SEQR questions:

Project: Yak Valley
 Date: 10/25/2023

**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: York Millg. & Gravel
Date: 10/25/2023

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>10/25/2023</u>
Name of Lead Agency	Date
<u>Joe M. Ivey</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

Resolution:

Mr. Wall moved to adopt the SEQR as official findings Mr. Dermody seconded, carried.

Ayes – 4 Nays – 0

Resolution:

Mr. Dermody moved to declare a negative declaration, Mr. Wall seconded, carried.

Ayes – 4 Nays – 0

Resolution:

Mr. Brightman moved to authorize the chairperson to sign the SEQR document, seconded by Mr. Wall, carried.

Ayes – 4 Nays – 0

Mr. McIlroy asked if there were any questions on the preliminary site plan.

Resolution:

Mr. Brightman moved to approve the preliminary site plan, Mr. Dermody seconded, carried.

Ayes – 4 Nays - 0

Mr. McIlroy asked if there were any comments on the final site plan.

Mr. Campbell – Approval would need to be conditioned upon the applicant entering into a hold harmless and indemnification agreement benefiting the Town of York to be drafted by the Town Attorney, which will be signed by the owner.

Resolution:

Mr. Brightman moved to approve the final site plan with the above condition, Mr. Dermody seconded, carried.

Ayes – 4 Nays – 0

Mr. McIlroy said we now can go back to the discussion on stamped plans.

Mr. Campbell – process is built into the code – sketch plan conference (Art XL, p 91). Regarding smaller projects Mr. Peter could decide after response from the board.

Mr. Dermody – need to be consistent with what we do, especially larger commercial projects.

Mr. Peter – an elevator was put up 2 weeks ago.

Mr. Campbell – but on a farm protected by Ag & Markets

Mr. Dermody – a lot of it is proximity to a populated area.

Mr. Campbell – A good middle ground is having a sketch plan conference (adding a month to review process) or letting Mr. Peter choose.

Mr. Peter asked if they could do sketch plan and preliminary the same night?

Mr. Campbell said the town does not require a public hearing for sketch plan. A stamp is how you have to do something and protects the town.

Mr. Wall thinks it should be required for every site plan.

Mr. Campbell – see the last sentence in 1102a.

Mr. Brightman – should apply reasonableness to this.

Mr. Peter – my procedure now is \$20,000 or less, no stamp – pole barn no, but house yes.

Mr. Dermody said it made sense to him.

Mr. Campbell – single house, 2 family house no site plan review. Any change to a business or commercial triggers a site plan amendment. Applies to anything other than single or 2 family or agricultural.

Mr. McIlroy – an accessory building on a house does not need a site plan.

Mr. Campbell referred to the code 1101.

Mr. Wall asked if other towns required stamps or not.

Mr. Campbell – most give the Code Enforcement officer or board discretion.

Mr. Dermody – think we need to make a policy on stamped drawings.

Mr. McIlroy – how do we proceed - stamped drawings for site plans (1103, p92-93). Special use permit has to have a site plan. Applicant has to have public hearing for ZBA – can we combine the two? Both boards would have to meet, and each have a quorum, send it to the county for variance review and we would become more user friendly. It would have to be posted for the purpose of joint public hearing for whoever, with planning board for site plan and ZBA for variance.

Mr. Campbell – Applications would come to the Planning Board first who refers it to County and ZBA for variance. One submission to the county and would avoid duplication between two boards.

Mr. Brightman – could we schedule both together?

Mr. Campbell – a lot of towns do that now but have to have a quorum of each board's members.

Mr. McIlroy – isn't sold on both boards meeting together unless it's a public hearing.

Resolution:

Mr. Dermody moved to adjourn at 9 pm, Mr. Brightman seconded, carried.

Ayes – 4 Nays – 0

Respectfully submitted,

Donna Falkner