

**York Planning Board**  
**Thursday, September 12, 2013, 7:00 P.M.**  
**York Public Library**

**Election of Temporary Chair**

Chairman Todd Frederick was not present and a chairman had to be elected.

**Motion:** Al Cotton, Jr. moved that Lew Stowe becomes temporary chairman for tonight's meeting. Peter Smith seconded. 4-1.

**Call to Order, Determination of Presence of Quorum**

Acting Chairman Lew called the meeting to order at 7:04. A quorum was determined with four people voting: Lew Stowe, Brud Weger, Al Cotton, Jr., and Peter Smith, who was asked to vote in place of Todd Frederick. Christine Grimando, the Town Planner, represented staff. Patience Horton took Minutes.

Applicant **Beachwalk at Longs Sands** had been removed from the agenda.

**Public Input**

**Open to the public to address any issue other than the scheduled public hearings,**

**Torbert Macdonald** represented himself. He commended Lew Stowe as the dissenting vote on the Sea Latch application by voting against upgrading Eastern Avenue. He called for a Planning/Selectmen joint workshop to discuss the water infrastructure between Camp Eaton and the Cutty Shark.

**Lew Stowe** said there are things that can be done right now to move forward with the Connector Road application. The land should be surveyed again. The parking lot easement located at the police station should be clarified. The Norton and Horn properties owned by the Town should be surveyed. The Town had agreed there would be a project leader. The planning board has designated a leader to play the role of the town planner.

**Field Changes**

**Sea Latch Landscaping Plan**

Town Planner Christine Grimando said the original landscape plan shows plants on the town sidewalk. After discussion, she said the board needs to take no action. It will be corrected and resubmitted.

**York Housing Authority Carriage House Expansion**

The building is in construction. The dumpster is to be relocated in the setback. One hundred twenty square feet of grass has to be changed to pavement. **Patricia Martine**, the director of the York Housing Authority, said the existing building had 18 units. Eleven new units and a community building are being added. It is York's first workforce housing. The change to pavement is for plowing. That has caused the runoff numbers to

change a miniscule amount. The dumpster was too close to the residents' building, and 5.1.6 allows for small accessory structures to be in side the setback. She said abutters on Georgiana Road are hopeful for a second additional street lighting on the property, and they have a petition for that.

**Motion:** Peter Smith moved that we allow Field Change 1 and Field Change 2, presented by the York Housing Authority for Carriage Housing Expansion project. Brud Weger seconded. 4-0

## **Minutes**

The August 8, 2013, minutes were reviewed and corrections were requested.

**Motion:** Peter Smith moved that we accept the minutes of August 8 with the correction on Line 57 as noted. Al Cotton seconded. 4-0.

## **Application Reviews and Public Hearings.**

### **Hadley Hills Subdivision Amendment, 32 Rumsey Road; Map & Lot 0090-0031-G, Revision to a Previously Approved Subdivision-lot line adjustment to combine to lots**

This is a subdivision from the 1970s. This application combines two lots into one. **Bob Cutts** has owned the property since 2000. He wants to remove the lot line. One lot is 8 acres and the other is 11.5 acres. Before he sells the land, he wants to see that there is only one house is possible there. It is good for the neighborhood. Deed changes have been made to correct the right of ways. Town Planner Christine Grimando said it currently it is approved as a residential subdivision. It could not be commercial beyond home occupations.

**Motion:** Brud Weger moved that we approve the Hadley Hills Subdivision Amendment that is shown to us tonight, 32 Rumsey Road, and Peter Smith seconded.

The **Public Hearing** was opened and closed. No one came forward to speak. Town Planner Christine Grimando said in the '70s there was little detail in the drainage plans. Bob Cutts said it should show on the last plan with the approved and completed work. The drainage easement would have to be maintained for the future.

**Vote:** The Chairman called for the vote. 4-0

### **Pine Ledge Residential Subdivision. 4 Turner Drive. Map & Lot 0099-0001-E, Continued Final Review of a major cluster subdivision application.**

Christine Grimando said the sketch review for this application was in July 2012. The site walk was in fall, 2012. It received preliminary approval in February 2013. Inaugural final review was July 2013.

Lew Stowe said the five-page wastewater report arrived this afternoon at 4:00. He had gone over the former report for several days and had questions based on it. He didn't read the new one that was presented three hours before the meeting. Peter Smith suggested a stipulation that we decline consideration any of the information received the same day. Christine Grimando said the board could review the information that came in the original packet. The new information can be a placeholder.

Lew Stowe responded to **York Conservation Commission's** document outlining its concerns about the Pine Ledge application. They had submitted it at an earlier meeting.

- The Conservation Commission requested an independent hydrological study. They recommended it as an extra layer of caution. Lew Stowe said it is being peer reviewed.
- The Commission asked for focus on the impaired water quality of the Cape Neddick watershed. Lew Stowe answered that the Planning Board has to stay within the current existing code and has no way to go beyond that.
- The Conservation Commission challenged the formula for net developable acreage. It checks out, he answered.
- The CC asked about DEP approval. It is pending, but it isn't in hand, he said.
- They inquired about stormwater approval. It is now complete and another on nitrate assessment is pending.
- The fire chief is fine with cisterns, but can request a change.
- Vernal pools? There are more vernal pools on the site than we see on the plan, but we do not review or administer review of vernal pools. That is part of the DEP process, not Planning Board.

Project Engineer **Joe Cheever** represented DLJ Corporation. Jeffrey Jellison, Rob McKee and Attorney Joe Winkler from Clark and Howell were also present. Joe apologized for offending the board with the late submission. It was caused by Ransom's review of the Hydrogeologic study. He summarized these issues.

- Conservation Commission was satisfied with all submittals
- DEP approval was addressed with an update sent by them verifying issuance of a permit.
- The applicant received a memo this week from Ransom indicating satisfaction with that stormwater review.
- The peer review for groundwater nitrate impact assessment shows concern over how the issue is addressed. Two geologists took different approaches to the calculation of the nitrates. Well Exclusion will have to be adjusted if the new calculation is found to be more severe.
- There is a plan note saying the fire cistern tank installation must conform to local fire chief requirements.
- Vernal pools will go on the plan.
- The blasting requirements were sent to DEP (Lisa Vickers) and then routed to Christine Grimando and the York Planning Board. A general note has been offered that covers all sections of the DEP submittal.

- The well easement has been submitted to Mr. Freeman concerning well radiuses that go over the boundary of his land.

Lew Stowe opened the **Open Hearing**. **Torbert Macdonald said**

- The Conservation Commission never received any feedback during the course of this process.
- The understanding of nitrates comes down to hydrology. There is conflicting information about nitrate plumes.
- Every house should be mandated to have low flow water appliances to cut down on the volume of water.
- Subdivision regulations show that sufficient water has to be available for the needs of the subdivision. That is not proven. It is asserted.
  - **Number 12:** the subdivision will not affect the quality or quantity of the ground water. The water supply and the groundwater are the same. The definition of the groundwater has to be established. It is inferred in Gillespie study.
  - **6.4.17.2:** the depth to the water table at representative points is required, but is missing. There are no test wells or representative points showing the depth to the water table.
  - **6.4.17.4:** data from the existing groundwater quality from can come from wells in the subdivision or from existing abutting wells. We do not have that information. The April 30 study from Gillespie states that sufficient groundwater resources appear to be available in the bedrock aquifer to support potable water needs. It is inferred.
  - The cluster is probably 100 feet below the location of these houses. At 90 Logging Road there is a yield of four gallons a minute. No. 39 Logging Road has yields has a yield of 20. No. 37 has a yield of 4. No. 23 has a yield of 4. No test wells were drilled. Analysis of the water is from a neighbor at 130 Logging Road. Nothing has been done directly. It is all by inference.
  - The closest cluster has low yield ratings. The law requires that you, the planning board, certify that there is an adequate water supply, and that the use of the water supply is not going to interfere with the groundwater. The flow or location of the aquifer is unknown. There should be a second consideration about the inferences made according to neighboring wells. It holds the applicant to the letter of the law or 6.14.17.2, the depth to the water table at representative points throughout the subdivision. As is, you are making a decision based on no information of a direct nature, but only inferential from nearby wells, which has low supplying.
  - Per Zoning, Page 124, #6, the homeowners association cannot be the easement holder because there is no homeowners association. Great Works cant be the easement holder because they will own the land.

**Tom Manzi** said the issue of cross contamination between the wells and the sewage system is for potential septic and water contamination. Water and septic have to be far apart. We know there are fractures under the earth. Regardless of how far apart you put them

on the surface, you don't know what's down there until you drill. In the past, the Planning Board has encouraged community septic systems. They can reduce the possibility of cross contamination.

**David Linney**, 180 Logging Road, Groundnut Hills Nursery, came forward to request that changes in the drainage plan will be treated correctly on the Land Trust Deed. Water that has sat for a long time has killed his plants. He needs assurances in the deed from Great Works that that won't happen. He is not willing to have the land opened up for the possibility of theft. This should be an open issue for the planning board, he said. The drainage and water quality are okay right now, but they have to be documented in the Great Works deed restrictions and codicils to the deed. They have to go on the official plan, because part of the plan covers the housing lots that border his nursery.

**Mary Moulton**, of 144 Logging Road, said she has met with Christine Grimando and Joe Cheever last fall. The cars coming down off Clay Hill Road are like a runaway train. How could the fire department sign off on only one road in and out of the new development? There will be accidents and deaths in winter. Also, runoff going off her land goes onto Mr. Linney's, she said.

Lew Stowe closed the **Public Hearing** and addressed concerns of the **Conservation Commission**. They have attended all our meetings. They did a site walk. They have kept up to date. They have communicated with the applicant.

- The Conservation Commission recommended the Planning Board not accept the Pine Ridge project. It does not meet the threshold of 50% of the buildable area. It should not be a cluster project. Cluster cannot have more units than it would as conventional. Lew Stowe responded that the property allows 39 conventional units, and this cluster development is for 33. They have not exceeded what a conventional design would allow.
- The Conservation Commission stated there are at least four lots do not have 200 feet of frontage on the abutting wetland. Christine Grimando answered there is an additional shoreland standard, but it is not for forested wetlands like these.
- The commission asks about water quality, storm runoff, and septic impact on the wetland of the Cape Neddick River. They asked for an independent assessment impact assessment. Lew Stowe said we've done the study. A hydrologist did a study relative to the plume, which is the spread of the effluent that cones out of the actual leach field. We had a peer engineer challenged it and make some recommendations. The goal of this project is to keep the wastewater within the land boundaries of this total development. Based on their presentation, they are doing it. Gillespie documented it, and we have followed up with Ransom.
- The Conservation Commission stated there is insufficient buffering. Christine Grimando said there are 100-foot setbacks in the shoreland. The applicant meets the 75 or 100-foot setbacks, depending on whether building in the shoreland or the wetland. We believe the applicant has met the requirement, she said.
- The Conservation Commission felt there are too many open space abutters. The open space design would be difficult for even experienced easement holders to manage. Peter Smith answered and described the conservation area at Whip-

poorwill, where 98 homes border the 180-acre conservation area. Each home backs up to conservation land. The perimeter is walked once a year, and that serves the easement holder's duties.

- The Conservation Commission has requested denial of the waiver for septic and well radii. Lew Stowe said that the 100-foot well radiuses are being met.
- The Conservation Commission has requested denial of the waivers for overhead utilities and the elimination of the second entrance. Lew Stowe said those waivers have already been granted.
- The Conservation Commission has asked for an independent hydrologist to assess the quality impact. Lew said we have done that with Ransom. They challenged the applicant to the limit for the septic systems. It would be hard to have someone challenge as hard as Ransom did.
- The Conservation Commission inquired about fire safety. Christine Grimando said she has received a letter of support from the fire chief.
- The Conservation Commission said there was no easement holder at the time of their letter. Lew Stowe answered, "Now there is."

**Joe Cheever covered open-ended items** from July 25, 2013, including abutters' concerns with the open space deed and covenants, and the easement for the open space.

Town Planner Christine Grimando said the ordinance explicitly supports the homeowner's association to be easement holder. Attorney Joe Winkler said the bylaws have been set and drafted. The first borrower applying for a bank loan will have to produce the document and prove the association's existence.

Joe Cheever said Great Works Regional Land Trust, which owns the land, does not feel it wants a conservation easement over the land. GWRLT will preserve, maintain and conserve the land, including some walking paths. The deed for the homeowner's association as easement holder will work in conjunction with GW in fulfilling the requirements.

The homeowners' association will have a one-time stewardship fee to Great Works. The developer would be the essential member of the homeowners association because the developer is the owner of all 33 lots. When the developer sells a lot, the new homeowner becomes one of the members of the association, and the developer remains a member of the association until he has sold all of the lots.

**Motion:** Lew Stowe said, I make a motion the town attorney reviews that the documentation meets our ordinance. Al Cotton seconded. 4-0

- Joe Cheever responded the Mrs. Moulton's public hearing testimony earlier in the evening. She had met with Joe and Christine Grimando in the fall. They had been a DEP traffic review in the fall. There was a traffic study in the spring. Traffic has been discussed extensively in these planning board meetings.
- There is no apparent concern about the fire cistern. There will be a note. The cistern tank company does everything. It will conform to fire department requirements.

- There is a requirement for 20 foot bedrock casings for all wells. A note could go on the plan requiring that much casing for each well in the subdivision, he said.
- He said he would add the DEP note and the vernal pools note to the plan.
- Lew Stowe said one DEP requirement was the change from the culvert sizes on Roads A, B, and C. Joe said the culverts were were changed on an earlier plan and presented to the board.
- Lew Stowe said the board was good on the stormwater.

Brud Weger asked Christine to research what minimum water flow is necessary for a well, depending how many bedrooms there are. When does that become an issue? He thought it is a matter for the purview of the plumbing code. Is it in our subdivision regulations? Joe Cheever replied to Brud's questions. It seems the board thinks it needs to guarantee that homeowner is going to have a good well. No one is necessarily asking you to guarantee that. Christine said there is a standard that says the review will show that there is sufficient water.

- Joe Cheever talked about hydrogeologist Cynthia Thayer's findings, "**the case where we were wrong.**" Cynthia Thayer had been before the Planning Board on July 28 explaining well monitoring. Her corresponding report was signed off by John Hopeck at DEP.
- Third-party engineer, Mike Abbott at Ransom, "had concerns about it." Those concerns have been addressed, and he is okay with it now, said Joe Cheever. He sent an email today saying he is okay, said Joe Cheever.
- Cynthia's level of conservative is based on requirements by the code, said Joe. Mike Abbott at Ransom had taken a more conservative approach, and he wanted Cynthia to look at the more conservative calculation when taking into account some of the bedrock that is shallow. If you want her to come back and do the presentation again and answer further questions again, we'll do that.

Christine Grimando asked if any additional information is needed to make the board feel that they have done their due diligence to ensure there is proper water supply. She planned to review streaming of Cynthia Thayer's presentation. I think I would hold off from requesting additional action at this time. I'm not sure what we'd ask for.

Joe Cheever summarized the open-ended reports:

- DEP
- Hydrologic
- The town attorney to review the documents
- Establishment of the homeowners association

Matters from the Public Hearing

- David Linney's Comments the board wants to see addressed.

**Adjourn**

10:30