

**TOWN OF YORK PLANNING BOARD  
THURSDAY, APRIL 25, 2002, 7:00 P.M.  
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**MINUTES**

Chairman Al Bibb began the meeting at 7:00 P.M. Planning Board members Barrie Munro, Dave Marshall, Glenn Farrell, Torbert Macdonald, and alternates Dan Remick and Dick Arnold attended. Town Planner Steve Burns represented the staff. Patience Horton was the recording secretary. The meeting was televised.

MINUTES

Minutes were not reviewed at the meeting.

APPLICATIONS

**Indian Hills Subdivision Amendment. 99/42.** Public Hearing regarding an amendment to prior approved subdivision off to North Village and Ogunquit Roads.

Steve Burns introduced the matter, a 3-lot subdivision with two front lots perpendicular to the road, each with a driveway accessing North Village Road. Chief Bracey had recently opposed having the driveways there. The applicant had agreed to reconfigure the lots to accommodate the change. The surveyor and engineer will work through the details.

Mr. Munro and Mr. Macdonald moved and seconded to open the Public Hearing. Phil Grove updated the Board about progress of the surveyor concerning a dispute about the lot line. He said that Don Wilson, an expert researcher, is going to come up with a determination. Mr. Munro and Mr. Macdonald motioned and seconded to close the Public Hearing.

Steve Burns recommended conditional approval subject to matters including the surveyor's specifying that there is good septic. Mr. Macdonald questioned conditional approval surrounding the septic being moved, when a new soils log will be needed. Applicant John Hughes showed the August 24, 2001 map of the property with suitable test pits on that map. Michael Cuomo has done additional test pits, he said.

The soil scientist tested the first two locations and thought there were plenty of other opportunities on the property. Torbert Macdonald said that he requires seeing test pits in physical existence, dug, and analyzed. Mr. Hughes said that he did not want to put them on the map at that time. He explained that he has been forced to reconfigure, emphasizing the word "forced." Dave Marshall asked why old test pits aren't on map. Mr. Hughes explained he was in the middle of changing the person he is working with. Also, it was his fifth time before the Board. The last time was October 11, 2001. He has had a dispute with his current engineer and was contracting for a nother surveyor to complete the job.

Al Bibb said that the ordinance requires that a licensed surveyor stamp the application. He asked if the Board could give conceptual approval pending other information. Glenn Farrell said he also wanted to see a stamped plan before he approves anything. "Lots may vary," written on the plan, is not reassuring to see, he said. Mr. Hughes said that it was not his fault that he was there that night. Some was his agent's fault. Some was Mr. Burns's fault, he said. He doesn't want to have to start over. He described his ending, professional relationship with Ken Wood. The final lot sizes may be slightly different than those on the plan, but they will meet buildable requirements, he said. He has as much ledge and flat land as he did on the earlier plan. He has a general configuration that he wants the surveyor to see. Mr. Farrell said that the Board has to see if these things work before it can approve them. Mr. Hughes said that he wants to take care of the issues at that evening's meeting, in order to save costs.

Torbert Macdonald said that what was presented was to be looked at as a brand new plan with significant changes. He referred to the process of making an application, citing Article 6 on submissions, and he called the plan a sketch plan. He also referred to Article 6.3, submission for preliminary, and then 6.3.2, actual survey of the plan. He didn't think that the Board was responsible for the developer's failure to submit, seeing that the developer had Article 6 to read for reference. Everyone who goes through this process has to meet these things. Mr. Munro recognized that the applicant thought that his is a plan change from the previous plan. Mr. Bibb said he wanted to give sketch plan approval, agreeing that a formal submittal was necessary, that the applicant was going in the right direction, and if carried through, the plans were approvable.

Mr. Marshall said that the problem was not the Board's fault. He said that Steve Burns did not get the right communication from the Police Chief. Because of the ordinances and the way the notes are written, the Board cannot give an approval on the proposed lot lines that eve-

ning, but it could give Mr. Hughes an approval to come back. Mr. Farrell asked about the test pits. Mr. Bibb said that the test pits have to be on the plan in the right position. Mr. Hughes said that that means he has to do them again. Mr. Munro said only the ones for the northerly lot. Mr. Hughes said that they are not optimized for north-south location. If they change, he would have to come for revision before the Board. Dave Marshall said that that wasn't true and asked for clarification about the difference between the road and driveways. Steve Burns looked up the standard and said that Mr. Hughes can have easements on both lots that overlap.

Mr. Bibb said that the Board cannot give conditional approval, but he wanted Mr. Hughes to leave knowing that he is on the right direction. He has a right to expect approval. Mr. Munro said that the Board is still dealing with 2 lots. They have been rotated. The developer has now satisfied the traffic consideration. Torbert Macdonald said that speaking in defense of Steve Burns, and as stated in Article 6.4.5, the developer shall submit relevant submissions. Therefore, Mr. Hughes can't expect Steve Burns to act as his agent. Mr. Hughes said that an engineering firm was acting as his agent. A final plan had been approved at an earlier time. He said that the Planning Department found that it was complete with a checklist, including Police and Fire Chiefs' approval. He was beyond that with his work, because the Board had approved the final plan. And here he was back to the sketch plan. The August meeting minutes show that site distance and public safety were discussed back then.

Steve Burns cited Article 5.4.8 in the Procedure for Final Plan Subdivision Regulations. It said that the applicant is responsible for all final approvals and permits, and there can be no objection from police chief. The applicant was responsible for approval and didn't do it.

Mr. Bibb asked what the Board could do beyond giving him sketch plan approval, telling him he is on the right track, and having him come back and expect approval. Mr. Marshall said that some of the plan notes couldn't be left alone, like lot sizes, waste disposal, and well radaii issues. The Board can agree with the concept as a plan, he said. The notes have to be consistent, and when it is all in place, Mr. Hughes will have to go to the Town Planner to make sure everything is covered. Then this plan could get approved.

Mr. Marshall made the motion that the Planning Board give sketch plan approval for the lot in the configuration as submitted, with the remaining items to be clarification in plan notes and survey approval. Mr. Farrell seconded the motion. It passed unanimously (5-0).

#### WORKSHOP

**Planning & Ordinance Committee.** Discussion with the Planning & Ordinance Committee about its work on the new Zoning Ordinance.

Susan Trowbridge, Ben Morong, Bill Dignan, and Richard Smith of the Planning and Ordinance Committee, as well as Michelle Moody, the Committee Liaison for the Selectmen, all drew chairs in front of the Planning Board for the ensuing conversation. Al Bibb opened the discussion by saying that when things are 95% complete, as this project was, they can start falling apart. He offered direction based on the Board's experience.

Steve Burns said a goal was to have zoning permits for all areas go through the same procedures. What will be heard before the Planning Board needs to be determined. A unified set of standards is optimal. What should the CEOs do, and what should planning do? he asked.

Susan Trowbridge described some of the different methods employed in the development of the new ordinance, including use of a strikeout version, correlation of subjects, such as elderly housing, development of cross-referenced, individual ordinances concerning when and why they were changed, and consolidation of information from both the Comp Plan and the former Ordinance. Steve Burns discussed the mapping of zone changes and the distribution of notices surrounding the changes.

Michelle Moody added that the formatting is so different that there is no way to keep the same section numbers with the various articles. They have total replacement. She also said that some areas, like Shorelands, have been pulled out because they are being worked on. Torbert Macdonald suggested that the brand new things could be identified with a different typeface. He also suggested that reasons for changes should be written down while they are being made to avoid problematic issues, if people in the future cannot follow the logic behind the changes. Dick Arnold described the importance and care of a document audit trail.

Mr. Munro said he applauded the Committee on their introductions to the different sections of the ordinances, which define the objectives in advance. Steve Burns said that introductions allow the average reader to understand what is being said. Mr. Bibb asked if the York Harbor Design Review Board could add some words about where its boundaries are. Torbert Macdonald stated he wants to see the verbiage of the Shoreland District kept, because it has been set by the State as minimum mandatory standards, and these things must be carried forward,

letter to the law. Steve Burns added that those agencies' comments on the language being used must be sought out before finalizing.

Ms. Trowbridge asked if, when Draft 10 comes out, the Planning Board would endorse it. Mr. Farrell replied that the Board would go over it, page by page, review it, mark it up, and it would then go to the Selectmen. Michelle Moody said a large, mixed group should review it. Torbert Macdonald suggested that maybe a mixed group should not review it, because perhaps the Planning Board should need its own work sessions. Steve Burns made rough dates for future meetings and Public Hearing.

**Staff Support for the Planning Board.** Discussion about staff support for the Planning Board to help ensure it can properly fulfill its duties.

Steve Burns said that Mark Green couldn't make the meeting, so the discussion could either be held that night or postponed for another night. It was decided to reschedule.

Other Business/Adjourn

Regarding the Ridge: the use of a speed observation device had been planned, with the understanding that it would allow basic traffic information to be collected. Mr. Munro said he also wanted a compilation of information regarding the last 3 years of accidents on that road to be made. The site visit was scheduled for Saturday, May 11, at 8:30 a.m.

Torbert Macdonald showed a copy of the Legislative Bulletin, dated April 8, 2002, with specific information about subdivision review procedures. He said there is a deadline for filing definitions, and that without doing so, the Town will be left with State statutes only. Steve Burns acknowledged and explained the information and filing plan further.

Mr. Marshall and Mr. Farrell moved and seconded to adjourn.