

York Planning Board
Thursday, September 11, 2008, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Tom Manzi opened the meeting and determined the Presence of Quorum. Barrie Munro, Glen MacWilliams, Dave Woods, and alternate Todd Frederick were present. Vice Chair Lew Stowe was absent. Todd Frederick voted in place of Lew Stowe. There were five voting members at the meeting. Town Planner Christine Grimando represented planning department staff. Patience Horton recorded minutes. The meeting was televised.

Public Input

Open to the public to address any issue other than the scheduled public hearings.

No one came forward to speak.

Minutes

Review and approve draft minutes

The Minutes of a joint meeting on August 29, 2008, were reviewed. The Planning Board acknowledged the general content of the minutes of the joint meeting with Selectmen, the York Beach Renaissance Committee, and the Planning Board representatives, Barrie Munro and Dave Woods.

Motion Glen MacWilliams moved to approve the minutes of the August 29, 2008, joint meeting. Todd Frederick seconded the motion, which passed, 4-0. Dave Woods abstained from the vote.

Highland Farm Phase II. 1 North Meadow Lane and 250 Cider Hill Road. Map & Lot: 0090-0029-A and 0090-0030. Request to approve revisions to the General Declaration of Covenants, Restrictions, and Easements for The Meadows at Highland Farm, Phase I subdivision, and request for postponement of further review of the Phase II Subdivision application.

Town Planner Christine Grimando said the applicant had come to the planning board earlier in the summer, at which time, the Planning Board delayed decision about the General Declaration of Covenants for Highland Farms Phase I until November while awaiting outcome of the transfer of land into conservation. Lot 14, the estate home abutting the Phase I subdivision, had recently been privately sold, and the Covenants directly affected the status of Phase I, considering its possible designation of conservation land, as well. That status also weighed on Lot 14.

Wolfe Tone, of the Trust for Public Land, said his group was purchasing the 130 acres of Phase II from Steve Woods, saying, "he no longer owns the land, we do." Approval of the Phase I application is still pending with the Planning Board, but the Trust for Public

Lands hopes to acquire that front piece, Phase 1, as well. In fact the Trust has gone ahead and pre-acquired the property, said Wolfe Tone. Glen MacWilliams commended him on his hard work and diligence toward conserving the land. Christine Grimando said the next hearing for Highland Farms Covenants could occur November 13.

Motion Glen MacWilliams Moved to grant the request to postpone the review of the Declaration of Covenants until November 13, 2008. Barrie Munro seconded the motion, which passed, 5-0.

Glen MacWilliams requested a Highland Farm presentation to acquaint the two newer board members to the application. Applicant Steve Woods said a simple presentation could be made. Speaking of the Declaration of Covenants, Barrie Munro recollected that Phase I and Lot 14 held a common septic system. Dissolution of the Covenants would discontinue the common septic system, a necessary step should the conservation purchase fall through.

Town Planner Christine Grimando summarized a September 9, 2008, letter from James Katsiaficas stating Phase II Subdivision of The Meadows at Highland Farm has, in fact been sold. Phase I, has not been sold, and the York Planning Board has extended subdivision approval until May 2010. The letter states the General Declaration of Covenants would be discussed with Attorney Hope Jacobson at the September 11, 2008, planning board meeting (this meeting). Hope Jacobson was not present at the meeting.

Motion Todd Frederick moved to accept the request to approve the withdrawal of the application for The Meadows at Highland Farm, Phase II Subdivision.

Friendly Amendment Dave Woods added that the September 7, 2008, letter from James Katsiaficas be should be attached to the minutes of the September 9, 2008 York Planning Board meeting. Todd Frederick accepted the friendly amendment.

Vote The motion carried, 5-0.

York Community Services. 834 US Route 1. Map 0094, Lot 0019. Review of a new multi-use building site plan and Route 1 Use Permit for York Community Services.

Christine Grimando said engineering issues were being presented. The applicant was last before the Planning Board in July. The application is complete. The lot is nonconforming with its existing use, and nonconformity is being decreased with the plan. Glare and lighting are issues. Dave Woods suggested a reference in the plan notes might say the lighting can be installed as the applicant feels is necessary and can be changed in response to abutters' objections.

Architect Scott Fiorentino described the pantry, function center, and thrift store. He said the hours of operation, as in the impact study, would entail the thrift store being open seven days a week in summer, and the store, pantry, and family services open five days a

week, otherwise. The hours for the function room were not yet known. Scott Fiorentino presented the elevations, including an initial look at the landscaping.

Joann Fryer of CLD Engineers said the group had submitted a combined Preliminary and Final Application on July 23. Items were also submitted to the Planning Office last week. The applicant hopes to receive Conditional Approval this evening, because an extension on the Purchase & Sale Agreement has not finalized. JoAnn Fryer discussed how the ledges prevent the building from fitting into the required setbacks. With the budget being tight for this building, cutting through the ledge for any purpose makes an impossible chance of meeting budget. JoAnn Fryer described the handicapped parking and the light shielding, particularly challenging on the north side. From the front, however, light does not filter through the trees. She discussed the dumpster location and underground utilities. She will ask for a waiver for the septic and disposal fields, she said. Joann Fryer then talked about stormwater drainage. Sheet flow would drive northerly, directly through swales along Route 1 and end up to traveling through a culvert then under Route 1 into a wetland before making its way along into the ocean at Long Sands. The town does not want maintenance responsibility for the stormwater drainage.

The freestanding propane caused concern for the Planning Board. It could not be buried, because of the ledge. Dave Woods suggested taking \$200 to hammer the ledge out, which seemed against the concept of keeping the ledge intact because of the budget. Architect Scott Fiorentino said every added cost was an issue. Dave Woods suggested berming the area for the tank to then fit underground, an idea Scott Fiorentino liked. Joann Fryer said the idea could be approached as a Field Change.

Landscape Architect Robby Woodburn said the landscape plan her firm designed fits the intent of the ordinance, though it does not meet the letter of the law with numbers. She does not want to plant as close to the road as expected. It's important to preserve vegetation along already along Route 1. She described the multi-variety planning, including large-caliper Red Oaks, predominant in the front elevation of the building. The recommended trees will require low maintenance. Dave Woods asked about visibility for delivery trucks, and Robby Woodburn described clear sight lines.

Motion Barrie Munro moved to accept the application for purposes of review. Todd Frederick seconded the motion.

In discussion, Glen MacWilliams said the Board could only approve completeness for purposes of review. Dave Woods added that the order to approving the application was to move preliminary then make a motion for final approval. The motion was restated and passed.

Restated Motion Barrie Munro moved the submission is complete for purposes of both preliminary and final review according to the Route 1 ordinances. Todd Frederick seconded the motion.

In discussion, Barrie Munro said there was no error in the second version of the motion. The vote was called.

Vote The motion to accept both the preliminary and final review of the application was accepted, 5-0.

Boundary surveys for York Community Services had been submitted. The board discussed the waiver of the landscape buffer yard. Glen MacWilliams asked about snow storage, and Joann Fryer replied the snow would be moved to the corners of the parking lot and then front end loaded and carted off.

Motion Glen MacWilliams moved to accept this application that has met the landscape buffer requirements. Barrie Munro seconded the motion, which passed, 5-0.

The Chairman opened the Public Hearing. No one came forward to speak

The group discussed the lighting design. Engineer Joann Fryer said it is hard to find a lighting designer who is licensed. Glen MacWilliams said a licensed lighting designer is not necessary. There should be a reduction of light in the buffer yard, he said. The potential change of use, as if to a restaurant, someday, has to be considered while addressing any waiver for septic. Barrie Munro suggested requiring proof that the septic won't fail.

Motion Glen MacWilliams moved to approve the waiver of 7.9.2.1. Barrie Munro seconded the motion. The motion was amended to include a copy of a CEO letter. The motion passed, 5-0.

Architect Scott Fiorentino said the light fixtures are the same as those at Stonewall Kitchen. Shielding and changing lamps to should bring down the illumination.

Barrie Munro reviewed Items (a) through (n) of Article 18.1.5.2, pertaining to the Route 1 Use Permit. The results were favorable. The group discussed the Purchase & Sale Agreement and Documentation of Agency. Glen MacWilliams said with certain items not approvable this evening, a conditional approval can still be given. With such a condition, the Board is not taking a risk as long as, before signing the Mylar, the board still reviews the conditional items and the Findings of Fact. Those items include: disposition of the propane tank, lighting, change in the drainage plan on the applicant lot, the Agency Agreement, and snow removal that will be trucked out when it reaches a point. Christine Grimando said the propane tank and the snow removal are in the Plan Notes. Barrie Munro said the CEO letter relative to the waiver should be attached to the Findings of Fact, adding that if the Conditional Approval is completed now, the applicant can get the Mylar within a month.

Barrie Munro discussed 18.2.7, written findings certifying compliance to the ordinance. Access, egress, and parking had been discussed, as had buffering in the north west corner. Electricity, landscaping, and buffering were discussed. Signage was not discussed, but it

is a CEO item. Stormwater was discussed, as had architectural quality. Offsite improvements had essentially satisfied the requirements. After discussing these items and others, Barrie Munro said Item 18.1.5.2 had been satisfied.

Motion Glen MacWilliams motioned to accept, conditionally, the final approval of the plan for York Community Services. These items include: lighting, change in the drainage plan on the applicant lot, and the Agency Agreement. Barrie Munro seconded the motion.

In discussion, Dave Woods said the Findings of Fact can bring the applicant directly to Town Hall for signature, and then they can move forward.

Vote The motion passed, 5-0.

Filliettaz Lot Line and ROW Adjustment, 7 Dirigo Drive. Map 0001, lot 0021-E.
Proposed lot line and ROW adjustment for a previously approved subdivision.

Applicant Dick Filliettaz said it has never taken anything so long to get so far as this application has taken. The two adjoining lots are conforming, but they will become non-conforming when the cul-de-sac is finally eliminated and the two lots are consolidated. It has taken three different drawings drawn up at the cost of \$4,200 over many years to get this far, which is difficult for a man of fixed income.

The Chairman opened the Public Hearing. **Debbie Mancuso**, neighbor to Dick Filliettaz, said she is concerned about the consolidation going forward, making the lots non-conforming and therefore illegal. That new situation would make them easy to build on.

Glen MacWilliams referred to the application originally filed in 2000. If it had been done then, it could have worked. But the ordinance changed in 2004, he explained to Dick Filliettaz. There is no grandfathering. The minutes of Dick Filliettaz's initial hearing show he was requested to submit an application, but did not do so.

Christine Grimando pieced together what she understood of the application's history. She said Dick Filliettaz came to the Planning Board in 2000 to eliminate the cul-de-sac, just as today. There was no engineered plan, so the board asked him to come back with a plan. Glen MacWilliams added that no agreement was made. Dave Woods noted someone wrote on the original "application compete for review" on October 10, 2000, but there is no copy of the application, anywhere.

The Town did not establish an end date by which the application had to be acted. Tom Manzi said the action was not carried forward. An applicant has to establish an end date against which the applicant has to act. Dick Filliettaz does not have acceptance of Preliminary Review with a motion by the Planning Board. Barrie Munro said for some reason or another, Dick Filliettaz was unable to do what the board asked him to do.

Dawn Hill was the Contract Town Planner at that time. A file note indicates the applicant had not come back after three months with an application. Glen MacWilliams told the board there was nothing that could be done, because a year ago, Dick Filiettaz again came to the Board and was also told to come back with an application and a plan. After that, Dick Filiettaz went to then-Town Planner Burn, who told him to get a continuance and go back to the board. Glen MacWilliams said the Steve Burns and the Board were amiss. Dave Woods said Dick Filiettaz is a victim of the Town in a naïve way. Dick Filiettaz reiterated Steve Burns told him to come back before the board for approval or a continuance. Glen MacWilliams said “none of us knew what he had, if there were an open application.” He said he thinks the employees of the Town should have said it doesn’t meet the requirements of the ordinance. Dave Woods asked how responsible the town is to the applicant’s grief. Glen MacWilliams said Dick Filiettaz is just asking for the dissolution of the cul-de-sac.

Motion Glen MacWilliams moved to deny the application at this point in time. Barrie Munro seconded the motion.

In discussion, Barrie Munro said the Board should establish a basis from which Dick Filiettaz can justify an appeal. Barrie Munro made a **friendly amendment**, which Glen MacWilliams approved. The amendment is incorporated in the following language.

Amended Motion Glen MacWilliams moved to deny the application at this point in time. The denial is based on the fact that the 200-foot setback will make the property more nonconforming. Barrie Munro seconded the amended motion, which passed, 5-0.

Neighbor Debbie Mancuso said she did not receive a better information, and Christine Grimando will make sure Debbie Mancuso receives future notices.

York Hospital, 15 Hospital Drive. Tax Map 0050, Lots: 6A, 11, 22, 23, 23A, 24, 26, 30, 32, 33, & 34. Application to amend a previously approved site plan.

Christine Grimando said the expansion plan had recently been approved, and the Hospital is applying for field changes as they approach construction. The wetland change is an amendment to the plan, not a Field Changes. They submitted a long list of things they’re changing, which causes a ripple effect on other areas.

Eric Weinberg of Altus Engineering (Eliot) said the big change is in the elimination of the basement, which changed the footprint and will shorten up the construction scheduling. The footprint for the entrance to the surgery wing has changed. Wetland fill is necessary. He presented a detailed, written report. The exterior landscaping has changed, and there is a safer pedestrian way. Hall House will not have to be altered in any way, and the helicopter pad will have no impact. As spokesperson for the hospital, Steve Pelletier said a lot of money has been saved, and the construction has been decreased by six months.

The Chairman opened the Public Hearing. **Kinley Gregg** came forward, saying she lives at the entrance to the access road. She is happy there will be no blasting, as hers is a very old house with a fragile chimney. With no one else to speak, the Public Hearing was closed.

Christine Grimando said the change brings improved pedestrian safety. The wetland fill is allowable. Barrie Munro complimented Altus Engineering for the fine wetland report, and Eric Weinberg said another firm did it instead, but he'll take the credit. Barrie Munro asked for re-affirmation that the applicant had never intended to use that wetland as a means of moving impervious water from the pond. Eric Weinberg pointed to the retaining wall where runoff from the paved surface will guide the water to the treatment pond.

Motion Barrie Munro moved to approve the changes for the York Hospital per Attachment A, Summary of Revised Data, dated August 28, 2008, and the Findings of Fact, dated September 11, 2008. The changes are to the approved plan, attached as a summary of plan changes and attended dated September 11, 2008. Glen MacWilliams seconded the motion, which passed 5-0.

Larenas Lot Line and ROW Adjustment. 11 Pine Crest Drive. Map 0080, Lot 0006-F. Proposed lot line and ROW dissolve for a previously approved subdivision.

Applicant Brian Rix said his grandmother had bought a lot of acreage in the '60s, and he inherited some of them. He sold his share to his boss, who will let Brian Rix to put a house on it to live in with his wife and his daughter. On the plot plan, there is a paper road. The paper road is on a 1979 subdivision plan, and there are no other roads on it. His grandmother created the subdivision, but nothing has ever been done about the paper road. Brian Rix said the lawyer did title research and found no legal claim to the paper road. There is no other road on the other side connecting to it. Christine Grimando instructed the applicant to submit one copy of the 1979 original plan. She read from Title 23 Section 3.2.3.1, where it reads if a proposed un-constructed road is not used in 20 years, it is not valid.

The Chairman opened the Public Hearing. Gail Lamont spoke on behalf of the Fletchers, her octogenarian parents. They believed they sold an 8-foot piece of land to Brian Rix, and they did not intend to sell it to the "other guy," Brian's boss, Jorge Larenas who owned the land. She asked the board to proceed slowly with the application and make no rash decisions.

Her parents are on Lot 4, across from Pine Crest Drive. She showed her parents' lot on the map, and she pointed to the part they sold off. She said she has the deed. Gail Lamont's parents feel they own the paper road, she said. There is a Quick Claim Deed signed by Florence and Donald Fletcher. With it, they are giving up the right to the paper road. They did not understand what they were doing when the transaction was made, she said of her parents. They did not read the papers when they signed them at TD Bank-north, because they trusted Brian Rix. Brian was not truthful, she said. She sold Brian Rix the extra land so he could get a leach field.

Dave Woods said the matter was not in the purview of the Planning Board. Glen MacWilliams said with litigation pending, the Planning Board is hard pressed to find a solution.

Brian Rix said he has been trying to put a house on the land for years. Many times he explained to Donald Fletcher that his boss had purchased the land. Gail Lamont said the transaction was made at TD BankNorth in Kittery facilitated by Joanne Small.

Tim Powers, a builder out of Wells, said the house is ready to build. The growth permit has come up. Without the Planning Board's permission to build it, the house will be jeopardized. He does not want a civil dispute about a paper road prevent the building of the house. Where is the criterion for erasing the paper road? Brian Rix said the Planning Board should give the best decision without the civil dispute. Dave Woods said the applicant purchased the Quit Claim Deed. The application can be accepted for purposes of review, as it appears to be in keeping with our other requirements.

Mr. Donald Fletcher, of 9 Pine Crest Drive, said he was good to Brian Rix, and Brian Rix lied to him about Jorge Larenas owning the land. Donald Fletcher said Brian Nix had tried to steal his land. As he spoke, Donald Fletcher's voice became emotional. Gail Lamont apologized for her father. She asked the board to put the matter off and deny the applicant's claim. David Woods said the deadline for the growth permit is the motivating factor. Glen MacWilliams said the board has enough to make a decision, either yes or no.

Motion Barrie Munro moved to approve the request to dissolve the paper street. Dave Woods seconded the motion.

In discussion, Todd Frederick said the lot is build-able, and the process has been followed, but the dispute is beyond Planning Board jurisdiction. Dave Woods said the matter could be appealed. The board discussed the importance of growth permit timing. They talked about the filing of the survey. Glen MacWilliams suggested making the filing of the survey, which is a requirement of the application, a condition of the motion.

Amended Motion. Barrie Munro moved to approve the request to dissolve the paper street. As well, the filing of the survey is a condition of the motion. Dave Woods seconded the motion, which passed, 5-0.

Other Business

In other business, Dave Woods made a progress report for the York Beach Subcommittee. There is an extra seat on the York Beach Subcommittee. He suggested opening up an advertisement to fill the seat. He had recently had a productive meeting with the Sewer Dept. Some time ago, the Sewer Department had tried to discuss a master plan for organizing sewer, taps, and sprinklers for York Beach, but they got no one's attention. Dave Woods hopes to have a forum of town officials to get things going. The traffic study and design standards are designed to improve the town. Barrie Munro talked about

finding State aid to finance improvements. Glen MacWilliams said the Planning Board can still approve parking and should maintain the ability to do that.

Mylars were signed for York School Department parking lot changes and for Ledgewood Park. The meeting ended at 11:00.