

**TOWN OF YORK PLANNING BOARD
THURSDAY, DECEMBER 8, 2005, 7:00 PM
YORK PUBLIC LIBRARY**

Chairman Barrie Munro began the meeting at 7:00. All the board members were present: Glenn Farrell, Barrie Munro, Richard Smith, Glen MacWilliams, Tom Manzi, and alternates Lee Corbin and Michelle Moody. Town Planner Steve Burns represented staff. Patience Horton took minutes. The chairman began by introducing the board and staff.

Public Input. Open to the public to address any issue other than issues scheduled for public hearings on this agenda.

York resident David Lincoln spoke about the Berkshire Development Project, which he had read about in the paper. It is directed toward the land at York's Wild Kingdom. He was opposed to making variances and ordinance changes to make room for shopping malls, even though the developer had indicated that the citizens need more places like CVS stores and Dick's Sporting Goods to go shopping. He said that a slow approach on the part of the Selectmen was best. In the spirit of *quid pro quo*, the developer may be offering a direct route to the Beach, but in the same spirit, "there is no free lunch," concluded David Lincoln. The chairman closed the public hearing.

Requests for Field Changes. Decide on requests from previously approved applicants.

Town Planner Steve Burns reported that there were no requests for field changes.

Application Reviews and Public Hearings.

York Village Business Center, 14 Cider Hill Road (Route 91). Map & Lot 0053-0009. Application for Final Approval for a Route One Use Permit and condominium conversion for a mixed-use commercial development.

Lee Corbin asked to have the applicant respond to issues Steve Burns had outlined in a November 28 letter. Jim Hanley of Engineering Alliance answered he had submitted information and plans on December 1. Those issues included the architect's stamp, a letter indicating financial capacity, a construction cost estimate for Phases 1 and 2, the DEP site permit, a letter from the York Sewer Department regarding capacity, mitigation information, the Police Department letter, a shared parking analysis, the deeded easement for shared access to Route 1 with Sanford Institution for Savings, which had been agreed upon but not executed, and six conditions for approval from Public works Director Bill Bray.

The chairman opened the public hearing. Abutter Scott Franklin thanked the applicant for the privacy fence and asked who would maintain it. The applicant would maintain it.

Its maintenance provision would be included in the plan notes, said Barrie Munro. The public hearing was closed.

Barrie Munro asked about the narrative response to 18.1.4.d, the impact statement. Impact concerns particularly include the impact on the roads, traffic conditions, and the police force. Michelle Moody said that York's unemployment rate is very low, and there should be a narrative to determine how many employees are needed at the facility. As well, 18.4.1.q, approval for building materials and architectural design, is still required.

Motion Glenn Farrell moved to accept the application as presented complete for purposes of review. Glen MacWilliams seconded the motion, which passed, 5-0.

Applicant representative Jim Hanley asked for confirmation that the architect could go forward. Glen MacWilliams said that the architectural information, so far, had been conceptual. The walkway coming from the shared parking and the drainage system still had to be discussed. Michelle Moody said that wetland mitigation from DEP had not been reviewed. Jim Hanley and Steve Burns explained how the DEP permit was submitted and final as of October 28, 2005. Jim Hanley said that the site work information had been passed on to the board. Steve Burns said that Town Engineer John Bradstreet wanted the sidewalk to run along Route 91, as well as internally throughout the business complex. The matter would be continued at the meeting the following week, said Barrie Munro.

Sanford Institution for Savings, 408 US Route 1. Map & Lot 0053-0008. Application for a Route One Use Permit for a bank on the site of the former Mandarin Inn.

Town Planner Steve Burns that the easement for the Sanford Institution for Savings (SIS) and the neighboring York Village Business Center's (YVBC) shared driveway was one of the last issues for this application, which was ready for conditional approval. Signoffs were still needed from Public Works Director, the Town Engineer, and the Fire Chief. The State should be ready to have a contract for the Routes 91 and 1 intersection by December 14. If the State does not come through, a new driveway permit will be necessary.

On plans he had placed on the easel, applicant engineer Chris Osterrieder pointed out driveways, parking spaces, and drainage areas. The property will drain largely to the rear, though a portion goes toward Route 1. Lighting near the Route 1 entrance had being requested by DOT, he said, and he pointed out its location.

The chairman opened and closed the public hearing. No one came forward to speak.

Motion Lee Corbin moved to accept the application as presented as complete for purposes of review. Glenn Farrell seconded the motion, which passed, 5-0.

The board briefly went over a variety of items. Public Works Director Bill Bray had asked for minor modifications to be reflected in the plans, including pedestrian lighting.

Glen MacWilliams asked about the majority of the drainage going toward the Business Center. Chris Osterrieder said that the Bank has 63% lot coverage, which looked like more on the plan he was displaying because the plan included the shared driveway easement. He pointed out the location for a requested lighting fixture that could be swiveled. Barrie Munro asked that the required light become a plan note. Landscape Architect Terrance Parker said that he did the landscaping for the project, and there is plenty of landscaping. Barrie Munro asked the applicant to confirm the amount of landscaping at the next meeting. Steve Burns spoke about occupancy permits, which would become available when a letter from the Town Attorney would indicate that the applicant had complied with the plans. Originally, three drive-thru lanes had been planned, but they were reduced to two. Glen MacWilliams asked if the 5600 square feet included the second floor. Andy English from Lassel Architects said that the entire second floor was included in the square footage, which does not include the canopy area. The footprint is smaller than the Mandarin Restaurant's was, he added. Samples of the building materials were passed around.

Motion Glenn Farrell made a motion for Conditional Approval pending the following outstanding issues:

- Changes made per Bill Bray's December 6, 2005 memo
- MDOT approval of a final traffic movement permit
- MDOT approval of the drainage plan and pedestrian signals with respect to the Routes 1 and 91 project
- The added plan note regarding the "special condition" in Traffic Movement Permit requiring Code Enforcement Officers to check prior to occupancy
- An added plan note that when shared access onto Rout 91 is built, all Route 91 improvements associated with this access shall be build regardless of which party (SIS or YVBC) pays for it.
- The swivel lighting requested by DEP will be added

Glen MacWilliams seconded the motion, which passed, 5-0.

Kearsarge House, 6 Railroad Ave and 4 Main Street. Map & Lot 0024-0015 and 0023-0008. Application for historic building conversion, with off-site parking.

Barrie Munro asked for a description of what is proposed at the Kearsarge House. Applicant representative Peter Dunfey said that reconstruction of the building would house a restaurant, retail shops, and 19 residential units. He showed the location of the project on a chart of downtown York Beach.

The Chairman opened the public hearing. Historic District Commission Chairman Helen Rollins Lord spoke about building height. When a building such as the Atlantic House was built, 4-storied buildings were common in York Beach, she said.

James Gambrell of York Beach said that he was concerned about parking. He said that the applicants had yet to prove that they have parking in perpetuity for all the uses of both

buildings. The proposed parking is oddly shaped, he said, and it is difficult to put in the require parking. Calling the applications a ruse, he compared the proposed hotels with B&Bs, which cannot be constructed until they get growth permits. The Public Hearing was closed.

Barrie Munro asked if the board was ready to accept the application as complete for purposes of review. Michelle Moody said that the board had not seen the plan for parking. Steve Burns said that in 1989, the Planning Board had approved a plan for parking as part of the review for the Kearsarge House at that time. He unfurled the parking plan, which the Planning Office had. However, if the 1989 Kearsarge approval were vested, there would not be parking for the Atlantic House. But there are other issues, he said. There is no density bonus for in the addition.

Motion Glenn Farrell moved to accept that application for purposes of review. Barrie Munro seconded the motion.

In discussion, Glen MacWilliams commented that there were two applications pending on the same parking. Barrie Munro said that the Atlantic House parking problems did not have to be taken into consideration for the Kearsarge House application.

Vote The motion passed, 5-0.

Peter Dunfey said that the Kearsarge parking interest would be maintained. Barrie Munro referred to the parking as a “drop dead” issue he was not going to discuss when there were other pertinent matters: the number of units, the non-conformity of the building, and the density of the new expansion.

Motion Glen MacWilliams moved to review the preliminary and final applications concurrently. Glenn Farrell seconded the motion, which passed, 5-0.

Barrie Munro asked if the number of units had been changed since the 1989 approval. Peter Dunfey said that they had not changed. There were ten hotel rooms as seasonal apartments and numerous vacant hotel rooms. A Code Enforcement Officer was trying to arrange a time to visit the building, he said. Steve Burns said that there were nine seasonal and one year-round unit, but that because there is no bonus density allowed with the 1989 historic renovation standards, no more than one unit can be put in the new part of the building.

In response, Shannon Alther, from TMS Architects, showed the board an elevation of the existing Kearsarge House and another with the fourth floor addition. Four of the nineteen units would be on the top floor, the new addition, and the remaining 15 units would be on the second and third floors, combined. Builder John DeStefano then explained his interpretation of the density. Steve Burns referred to Code 7.5.1.4.d, the enlargement of existing building for conversion of large historic building. It restricts the enlargement to conform to the underlying zone, he said. Michelle Moody said that the addition is not the

original structure. The density bonus does not apply when the building is being expanded. John DeStefano replied that a 30% expansion was allowable and density regulations would supercede other density ordinances. In fact, the expansion could go to 24 units. Steve Burns reiterated that the addition has to conform to the density of the zone.

*At that point, Chairman Barrie Munro broke from the matter at hand and announced that the Planning Board would not be reviewing the last two items on the agenda, **The Union Bluff and Jeremiah Campbell**. Those applications would be picked up at the next meeting, December 15.*

Glen MacWilliams said that he like the way the applicant was interpreting at the density issue for the Kearsarge House.

Motion Glen MacWilliams moved to accept the applicant's density request based on the November 30, 2005 letter from project engineer JoAnn Fryer to Helen Rollins Lord, Chairman of the Historic District Commission, describing the applicant's interpretation of Ordinances 7.5.1.4.d and 7.5.1.6.c. Richard Smith seconded the motion.

In discussion, Tom Manzi said he was concerned about the increase in the height of the building, and Michelle Moody said there was a question about the applicant getting 24 units into the building.

Vote The motion passed, 4-1, with Tom Manzi opposed.

Steve Burns said that the setbacks from several of the property lines do not meet the setbacks, as they must for non-conforming buildings. When the new wall comes up, it has to be five feet back from property line. Glen MacWilliams said that the letter from the town attorney stated that in Article 17.2.1 for non-conforming structures, the walls have to be pulled back to five feet. On a plan, architect Shannon Alther showed how he felt he could comply with the request.

Motion Glenn Farrell moved that the addition must conform to Article 17.2.1.2.b. Glen MacWilliams seconded the motion, which passed 5.0.

The applicant had made five waiver requests: high intensity soils mapping (section 6.3.32), landscaping plan (section 6.4.6), storm water plans (sections 6.2.27 and 6.4.16), and erosion and sedimentation control plans (section 6.4.15). Chairman Barrie Munro said that the rationale behind waiving them was that they simply did not apply to the matter.

Motion Glenn Farrell moved that the board approve the waiver requests. Glen MacWilliams seconded the motion, which passed 5-0.

Barrie Munro ruled out that lot coverage and building height were issues. Lee Corbin asked if determining the front of the building was an issue. No, it was not. Barrie Munro stated that the board had gone as far as it could with the application that evening.

Atlantic House. 2 Beach Street, 4 Main Street, and 7 Main Street. Map & Lot 0024-0044, 0024-0043-A, and 0023-0008. Application for historic building conversion and expansion, with off-site parking.

Architect Shannon Alther showed an elevation and plans for refurbishing the Atlantic House. He planned to continue the “vernacular” of the face of the building all the way around it.

The chairman opened the public hearing. Gulf Street abutter Bill Roche said that he had met several times in the past few months with Atlantic House representative, Peter Dunfey. Until recently, Bill Roche was planning to oppose the project. He asked the board for a little time so he could submit his concerns for its consideration. Barrie Munro instructed him to submit them to Steve Burns within the next few days. The public hearing was closed.

Steve Burns said that he had reviewed the application, and it was complete

Motion Glen MacWilliams moved to accept the application as complete for purposes of review. Glenn Farrell seconded the motion, which passed, 5-0.

Motion Glen MacWilliams moved to review the preliminary and final applications concurrently. Glenn Farrell seconded the motion, which passed, 5-0.

Motion Glenn Farrell moved to approve the waiver requests. Glen MacWilliams seconded the motion, which passed, 5-0.

Steve Burns said that Public Works Director Bill Bray had comments regarding 11 different points, none of which were insurmountable. He had agreed there would be no MDOT traffic movement requirement. Beach Street as a one-way remained an outstanding issue. He had received letters of support from Phyllis Fox and Stephen Dunne. There was a discussion about ownership of privately-owned Gulf Street, which led Peter Dunfey to hand out papers about the ownership of Gulf Street and the requested changes to the street. Steve Burns suggested passing those papers along to the Town Attorney.

Shannon Anther said that the building wall would be moved away from the theater building against which it abuts, creating a separation of three and one-half feet. The floors above that will match, because the building is nonconforming to record. Barrie Munro commented that the interpretation was well founded.

Motion Barrie Munro moved that the setback, as it is applied for on the theater side, is acceptable in that it satisfies the nonconforming lot ordinance with regard to the setback, as in Article 17.3.4.3. Glenn Farrell seconded the motion, which passed, 5-0.

Steve Burns said as far as parking was concerned, trip generation was what mattered, and it should call for a full assessment. Two years ago, the Planning Board was given the power to waive parking, but the applicant had not shown due diligence to utilize the situation. Project engineer JoAnn Fryer said that the use of the buildings in prior years had created more potential trips. Peter Dunfey said he plans to allow one parking space per residential unit—19 at the Kearsarge House and 9 at the Atlantic House. Barrie Munro asked the applicant to go through the process of analyzing and quantifying the parking needs for the two buildings. Glenn Farrell said that the applicant had not mentioned parking for the restaurant and retail space. Harold Anderson, owner of the Kearsarge House, said that his building mirrors the parking needs of the Atlantic house, except that the Atlantic's restaurant would be year-round, and Kearsarge would not.

Barrie Munro asked to continue the matter at its next review.

York Storage Solutions. 1950 US Route One. Map & Lot 0100-0029. Application to raze the former Elks Lodge and construct two large storage buildings.

Chairman Barrie Munro opened and closed the public hearing. No one came forward to speak. Steve Burns said the application was complete and that waiver requests were being made.

Landscape architect Robbie Woodburn of Woodburn & Company showed a photo of the currently standing Elks Hall and then showed plans and elevations for the proposed storage building as it would sit with the proposed planting, over the top of the ridge. The vegetation might take three or four years to develop to the point where the building is hidden as much as the picture showed, she said. The illustration showed the building with a 12-to-1 roof pitch, rather than 4-to-1, as the ordinance requires. Four-to-one would double the height of the building. Ken Wood, of ATTAR Engineering, said that the lower roof would adequately accommodate the snow load. Barrie Munro said that before waiving 6.3.13.4 and 6.3.13.5, a site visit would be in order. When polled by the chairman, Glenn Farrell, Richard Smith, Lee Corbin, Glen MacWilliams, and Tom Manzi all agreed that the building was acceptable. Michelle Moody said that she was not sure about having a building that wide and of those materials and was not sure about 6.3.13.4 and 5, materials and roof pitch. Applicant Jonathan Hall passed around the samples of materials for the siding.

Richard Smith asked how the back would be buffered. He also wanted to know about the landscaping of the right of way on the southern property line. He was concerned about what might happen if the vegetation on the ROW were cut down. The buffer could not be created in the right of way. Ken Wood said that the design does not meet the setbacks because of the pavement. Glenn Farrell said that it has to meet the setback. Barrie

Munro said that the buffer could be modified, but not the setbacks. Tom Manzi agreed that the Planning Board could not grant a variance for any setback.

Motion Glenn Farrell moved that that the pavement does not meet the required setback. Glen MacWilliams seconded the motion.

In discussion, Lee Corbin said if the applicant does reconfigure the building to meet the setback, then there will be a visibility problem. Steve Burns commented, "Maybe not."

Vote The motion passed, 5-0.

Motion Glen MacWilliams moved to accept as the application complete for purposes of review. Glenn Farrell seconded the motion, which passed, 5-0.

Passaconaway by the Sea/Perkins. 1780 US Route One. Map & Lot 0200-0027.
Sketch review of proposed development with 263 residential lots/units and a hotel.

The chairman opened the public hearing. Rick Boardman of the York Sewer District said that he was not sure if extending the sewer to the proposed area of the Route 1 zone complied with the Comp Plan. He said that the Selectmen have to decide if it is consistent, or not. He asked the Planning Board to seek input from the Board of Selectmen on it.

Ingrid Claesson, who had once made a presentation to the Planning Board about cottage-style affordable housing, spoke of her support of this project as part of a solution to affordable housing.

David Lincoln said that the Town does not have an overall plan for building up the town. Without such a plan, York will be piecemealing development. He questioned the new development's production of 100,000 gallons of sewage a day, as he had read in the paper. He asked about its affect on the police department. He asked how five years of development could be controlled to prevent it from happening faster. Referring to the *quid quo pro* statement he had made during the Public Input session at the beginning of the meeting, he once again stated, "there is no free lunch."

Applicant Seth Spiller said that the proposed project is a permitted use in the Route 1-6 zone. The anticipated sewage flow-out is 150,000 gallons per day. He showed a map of the Cape Neddick and northern areas of Route 1 York. It showed the different phases of sewer development south of and leading toward the proposed site. The installation of the new sewer sections would be at no cost to the town, he said. He described the 230 acres of land proposed for development with affordable, elderly housing featuring single- and multi-family buildings, as well as work force housing.

Engineer Steve Towne from Oak Point Associates described the potential hotel with underground parking on the Gulf Hill portion of the land. He pointed out wetlands. He showed the two entrances onto Route 1, and the variety of collector roads and smaller

roads with sidewalks. He described a number of necessary permits, including Route 1 Use and permits from DOT and DEP. Seth Spiller said that the impacts made by the elderly on roads, ambulance, fire, and police are generally small. The tax revenue would be very good. He said that the size of the project is not out of scale for York. A similar project in Topsham has 1000 cottages. He asked the board to particularly look at the article about cottage housing he had included in the information packet he had passed out to the board members. Seth Spiller asked what would be necessary to submit to the board to get the preliminary guidance so that engineering work could begin. Steve Burns said that it was too early to ask that.

The meeting ended. The time was 12:10 A.M. The remaining items on the agenda were continued to the following meeting:

Check Completeness of New Applications. Time limited to 15 minutes per application.

Union Bluff Function Hall 4 & 6 Beach Street. Map & Lot 0024-0043 and 0024-0043-B. Re-application for Site Plan review to raze the theater building and construct a new function hall.

Jeremiah Campbell. 1537 US Route One. Map & Lot 0010-0007-B. Re-application for Route One Use Permit to expand existing retail business.

Minutes Review and approve draft minutes (Oct 20 and Nov 10)

Other Business/Adjourn