

TOWN OF YORK PLANNING BOARD
THURSDAY, JULY 8, 2004, 7:00 PM
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Chairman Glenn Farrell started the meeting at 7:05. All the Board members, Dave Marshall, Barrie Munro, Glen MacWilliams, Richard Smith, and alternates Tom Manzi and Lee Corbin were in attendance. Steve Burns represented the Planning Office. Patience Horton took Minutes. The meeting was televised.

Public Input

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

No one came forward to speak during this opportunity.

Minutes

Review and approval of draft minutes of June 10 and June 24, 2004.

Motion Barrie Munro moved and Dave Marshall seconded to approve both sets of Minutes, as written. The motion passed, 5-0.

Annual Organizational Meeting

Section 2.3.1 of the Planning Board By-Laws requires the Board to elect a Chair and Vice-Chair annually, at the first regular meeting of the Board on or about July 1st.

Richard Smith nominated Dave Marshall as Chairman. Glenn Farrell nominated Barrie Munro as Chairman. Dave Marshall deferred his nomination to Barrie Munro due to time constraints. Barrie Munro agreed to accept the position, if Dave Marshall would serve as Co-chair. Steve Burns said there was no restriction on Dave Marshall's continued position as Co-chair, though he had served as such for two prior appointments. No secret ballot was necessary, because there was no competition. Barrie Munro was elected Chairman with a 5-0 vote. Dave Marshall was elected Co-chairman with a 4-0 vote. Glenn Farrell said, "Let the record show that Dave Marshall did not vote for himself."

Chairman Barrie Munro conducted the remainder of the meeting.

Applications

Elks Club, 995 U.S. Route One, Map 30A/Lot 18. Public Hearing. This is an application for a conceptual discussion with the Board regarding a Route One Use Permit for construction of a new building to house the Elks Club. This building will include a 250-seat function hall.

Barrie Munro opened the Public Hearing by asking for a presentation from the applicant. Neil Brown of the Elks Lodge described the Elks' local and national service to charities, veterans, and youth, including a \$30,000 contribution to the York Food Pantry in 2003, a sizable donation to the Maine Children Cancer Program, and many other achievements.

Architect Mark Ryan described a proposed 7,828 sq ft, one-story, building with three linear segments for the lodge, function hall, and service section containing the caterer's kitchen and bathrooms. He described the architecture as traditional with the lodge in Georgian style, a porte-cochere featured in the central service section, and a barn-like function-hall area to the back. The property will feature a formal lawn where flags and the traditional statue of an elk will be displayed. A patio will extend off the lodge. The building will be constructed of low-maintenance material, with a metal roofing system and gray, metal clapboard-like panels on the lodge. The metal panels for the barn will resemble board-and-baton construction.

Civil engineer Mike Livingston gave an overview of features including underground power running from Route One, a 380-ft extension of public water to the center of the building, a required sprinkler system, and a septic system partially located below a parking lot. The anticipated size of the wastewater flow will be determined from studying output from Elks Lodges in Dover and Portsmouth, the size and capacity of which (in Portsmouth) are similar to the proposed building. He gave a conceptual idea of the runoff, including sheet flow, and the necessary swale and detention pond. Less than 50% of the building and parking will cover the lot, less than the maximum allowed. Mike Livingston described the need for the applicant to construct the driveway entrance in the very near future in order to take advantage of a grandfathered, transferable permit obtained by an earlier developer for a thwarted project on the property. The early installation of the driveway would put off the need for one traffic study, which would save time.

Steve Burns said that the planned driveway site is a good location. Lee Corbin asked if there would be a hardship for the Applicant, were the conditional okay not given. Mike Livingston said that the advantage of constructing it now would be in not having to reapply to the State for a permit. The Elks wish to begin cleaning the site of debris as soon as possible.

Don Bristow-Carrico, an abutter on nearby Rogers Road, said that at some point, perhaps now, despite expense, sewer should be brought to that section of Route One. At least the applicant is bringing in water, he said. He was concerned about the potential high parking volume. He suggested the utilization of renewable energy or solar gain.

Ray Paquette of nearby Whispering Winds said that the corner of the building appears to be only 20 feet from his neighbor's lot. The swamp flows onto his property, and he is concerned about how that might change. He asked for a privacy fence separating the Lodge from residences, and he was worried about the level of the sound.

Mike Livingston said that whatever stakes are on the property were left over from a prior project. He expects to maintain the required 35-ft buffer. He showed where a fence

along the back might benefit abutters. The lodge will not be used nightly, or even weekly. There will not be a wedding every week.

Nancy Richard lives next to Ray Paquette. She said that buffering has to exist for the protection of residential homes behind the building. She was concerned about car lights shining in her home, as well as the lights illuminating the parking lot. The potential noise worried her. Because there are no other function halls in York, she expects this one to be popular. As well as a big fence, shrubs must be placed along the perimeter.

David Tibbetts of the York Conservation Commission had checked the property's wetland on State conservation maps, and saw that the area of a wetland connected to the property is relatively small. The runoff from the parking area particularly concerned him. He asked for further definition of the flood control system.

Barrie Munro closed the Public Hearing. He said that he had gotten a call from abutter Jean Weston, who identified herself in the audience. They had talked about prior future off-site mitigation requirements in the area, including the replacement of culverts and the diversion of a wetland system flowing down under Ridge Road and out to the ocean.

For the audience-at-large, Chairman Barrie Munro described the Planning Board's responsibility in participating in the sketch plan review, enabling them to detail points of communication to make the applicant aware about issues that need further clarification. He then referred to a Memo from Bill Bray requesting an MDOT Traffic Movement Permit and the retention of a Traffic Consultant from the applicant, due to the anticipated, significant volume of traffic. Steve Burns said that there is risk in allowing the applicant to go forward and commence construction on the Route One curb cut. Lee Corbin said that the Board should offer a "layered condition" based on Bill Bray's approval, where any action the applicant takes with his approval be would conditioned on the Board's eventual approval. If the project does not go forward, the area has to be returned to how it is now. Glen MacWilliams agreed. He asked if the permit is transferable. Mike Livingston said that the letter from DOT specified the permit transfer to the Elks would be grandfathered to a certain, pending date. Barrie Munro asked the Board if a layered approach to approving the curb cut/driveway installation would be agreeable. Board members nodded their heads, and none disagreed.

Glenn Farrell began summarizing subjects that need to be developed. He asked that the dumpster location be identified. Though the facility will not be used that often, the Planning Board has to look at it as if it is used all the time, in case it is very successful, he said. Fences, landscape architecture, and buffering ("you want to make your neighbors happy") are all important. Barrie Munro asked for a formal landscaping plan. Dave Marshall pointed out good aspects, like underground utilities, and agreed that a formal landscaping plan must be designed for the benefit of the abutters. He asked to have the septic system tank size addressed, as well as runoff from the parking lot.

Lee Corbin, referring to Nancy Richards's concerns during the Public Hearing, sympathized with the hardship of living near a parking lot. She said the plan calls for a 30-ft

setback, when the setback is usually 50 ft. How had this been exempted in the Shoreland? Steve Burns then looked up the setback rule, where exceptions allowing the 30-ft setback did not include parking lots. The setback should be 50 ft. Glen MacWilliams insisted that the setbacks be maintained.

Tom Manzi was concerned about the engineering for the septic, partially covered by a patio and a parking lot. Richard Smith stressed that the buffer at the back and the leech field are the most important items. Barrie Munro cited ordinances he asked the applicant to particularly adhere to, including: 6.3.23, Amenities; 6.3.17, Preservation of Landscape; 6.3.13, Site Design Requirements; 6.3.11, Landscaping Requirements for Parking; 6.3.10, Landscaping of Buffer Yards; 6.3.2, Scale, Bulk, and Creativity as they apply to Large Parking Areas; Oil Separators, and how oil is trapped before as sheet flow feeds into the wetland; 7.17, the Subdivision Regulation concerning Landscaping (he reminded the applicant that the Planning Board can ask for more than the Town does); and 8.19, Snow Removal and placement.

Tom Manzi described the basic layout of three connected areas assembled to resemble a 19th century farmhouse with a connecting barn not unlike that at Stonewall Kitchen, where “barn” portion, however, of the building does look like an actual barn. To do so, that section of the Elks’ Lodge will need features on both the north side and the south sides, and more so on the south side. Barrie Munro reminded the applicant that, according to the ordinance, the materials in the Route One side would have to be natural, not high tech. Glenn Farrell added that the building must be within 500 feet of a hydrant.

Cliff Realty Corporation-Cliff Subdivision. 650 Shore Road. Map 2/Lot 7. Public Hearing. This is an application for a Sketch Review of a 3-lot subdivision of property at the Cape Neddick Country Club. The applicant is seeking input regarding the creation of 2 residential lots on the perimeter of the golf course, to be accessed from Pine Hill Road.

Steve Burns described a misrepresentation of the map and lot location for this property, though the street address was listed correctly, when the hearing was announced in the newspaper. Barrie Munro suggested that since it was a sketch plan with no legal consequences being heard, it was all right to go forward. All Board members agreed it was all right to go forward.

Jim Gambrill, Chairman of the Board of The Cliff Realty Corporation, d/a/a Cape Neddick Country Club, gave a background of the Club, which was founded in 1920, and was divided up among 15 owners in 1950. The development and sale of two peripheral lots would provide funds for needed improvements to the course.

Project Engineer Ken Wood showed a plan and described the access to the lots from Pine Hill Road over an existing right of way. He cited Sections 7.8.2, 7.9.1, and 9.5.9, concerning the homes’ able connection to water, sewer, and the required access to a 50 ft right-of-way, which could not be met, and about which problem the applicant was coming before the Board.

Chairman Barrie Munro opened the Public Hearing. David Tibbetts, York Conservation Commission, identified the property's wetland on map prepared by the State Planning Office as Wetland 180. It is a fish habitat, a flood flow corridor, and a lilac habitat. In it dwells the critical rare species of Spotted Turtle. He was not in favor of any kind of encroachment to that area or the buffer of that wetland.

Dave Bracey, abutter on the Pine Hill side, discussed the subject ROW. It runs behind three of his family's houses. The deed states that it is a 40-ft right-of way. He described it as being bounded by stonewalls to the north and south. There is ledge and swamp located in some of it. "It is not kind territory to do anything in." There is a sharp turn in the right-of way. How do they plan to make the turn? To use it would require major blasting, possibly harming septic systems in the area. If a variance were provided for two lots, it would open the door for the applicant to come back for more lots.

David Weare said that the applicant had approached him in the past about expanding the right-of-way by using some of his property. The walled-in ROW was never a road access. Blasting would be necessary to convert it to a road. The water quality for homes in the area has been degraded since the golf course went in, he said, causing some residents in the area, including his brother on Pine Hill, to have to go on summer water. He referred to newspaper articles he had kept. One article said that in 1997, York Planning Board had committed to monitoring wells, which they had not done. He described past blasting, mentioned wetland mitigation, and low well output. He speculated that additional blasting would affect abutter Doug Bracey's leech field, which will cause affluence to come onto David Weare's own property. He strongly opposed the development, and stressed that he would never sell any land to enable it to occur.

Abutter Peter Ashley said that his 505-ft deep well produces about ½ gallon per minute, forcing him to hook up to summer water. Other wells in the area have difficulties, including H. Bracey, who had to drill and still only gets a minimum of water. He suggested that Cliff Realty drill their wells before "going through the mess of opening a right-of-way."

Nora Clements reiterated Jim Gambrill's earlier-expressed desire for keeping the golf course as open space. The two lots are the only ones available for building and will remain so.

Jim Gambrill said that the wells are monitored by DEP requirements. He regrets that people have trouble with wells, but it is not the fault of the golf course. He clarified that in the 1990s, somebody approached Cliff Realty Corporation to buy the club and build on approximately 20 house lots, but was turned down.

Abutter Peter Ashley said that there was a difference of understanding about the monitoring of wells. At one time, test wells were supposed to have been hand-dug. One was never dug for him, and when he talked to CEO Tim DeCoteau about it, he had been told to get in touch with DEP about it.

Jim Wood responded to David Tibbitts's comments about conservation, saying that the spotted turtle habitat was not in the area designated for the subdivision. He stressed that accusations that the applicant was turning the golf course into a housing development were unjust.

Barrie Munro closed the Public Hearing and asked Steve Burns about the width of the right-of-way. Steve Burns said that the standards dictate that there must be a 50 ft of ROW. The question is if it is a 50 ft right-of-way all the way out to the street. It isn't clear in the codes if a 40-ft area, which this has, is allowable. Richard Smith said that it does have to be 50 ft. all the way. For other purposes, it is all right, but for the house lots, it has to be 50 feet all the way from Pine Hill. Glen MacWilliams asked that if it was just one residence and the right-of-way is leased, could they use it? Steve Burns read from Article 5.5, Zoning, and 5.5.1, New Buildings, that their creating the lot requires the 50 ft. right-of-way. Lee Corbin said that it is straightforward that the right-of-way has to be 50 feet, though the roadbed can be less. Glenn Farrell said that the sharp turn makes it even harder. The Planning Board has no right to change it from 50-ft. requirement, and wouldn't want to do it, anyway.

Barrie Munro noted that it all the members of the Planning Board had agreed that the Planning Board had no right to change the requirement from 50 feet. Board members nodded. No one disagreed. That was the consensus.

Barrie Munro reviewed a Memo from Bill Bray, Public Works Director, regarding his concern about the sight distance from the 40-foot ROW at Pine Hill Road. Barrie Munro also asked Steve Burns to find out more about the Planning Board's original requirements concerning the amount of water drawn and monitoring for pollution in the golf course area.

Other Business/Adjourn

Barrie Monroe directed attention to a letter from Patricia Martine of the York Housing Authority, saying that though the ordinance requirements maintain that topsoil cannot be removed from the Village Woods site, the quality of the existing topsoil in the Phase I area is so substandard, that new topsoil for the lawn area is necessary. The only way to achieve this is through a waiver, which she was requesting through her letter.

Motion Glenn Farrell moved that York Housing Authority be permitted to remove the topsoil from the site and replace it with better soil. Glen MacWilliams seconded the motion. All were in favor with a 5-0 vote.

The meeting ended at 9:15.