

York Planning Board
Thursday, July 12, 2007, 7:00 PM
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Glen MacWilliams began the meeting at 7:00 and determined presence of a quorum. Beside Glen MacWilliams, Vice Chairman Tom Manzi, Barrie Munro, new board member David Woods, and new alternate board member Lew Stowe were in attendance. Lee Corbin was absent. Lew Stowe was asked to vote in her place. Glenn Farrell had allowed his term with the planning Board to expire, and is no longer a member. Steve Burns represented Planning Department staff. He has a new job title. He is the Town of York Community Development Director. Patience Horton took minutes. The meeting was televised.

Annual Organizational Meeting

It was the first Thursday in July, so the Annual Organizational Meeting was held to determine the positions of Chairman, Vice Chairman, and Secretary for the coming year.

Nomination Barrie Munro nominated the incumbent Chairman, Glen MacWilliams, and Vice Chairman, Tom Manzi. Tom Manzi seconded the nomination for Chairman, and Glen MacWilliams seconded the nomination for Vice Chairman.

In discussion, David Woods said he would nominate Lee Corbin *in absentia*, but could not, since she was not present to accept the nomination.

Vote Glen MacWilliams was elected with a 4-0 vote. Tom Manzi was elected with a 4-0 vote. David Woods abstained from voting.

Nomination for Secretary Glen MacWilliams nominated Barrie Munro as Secretary. Tom Manzi seconded the motion, which passed, 5-0.

Speaking about former member Glenn Farrell, Barrie Munro said Glenn Farrell had left the board for personal reasons. He had been on the board since 1991. He served as Chairman for four of those years. Barrie Munro expressed the sincere appreciation of the board members, who applauded.

Motion Barrie Munro moved to pass Glenn Farrell's resignation to the Board of Selectmen. Tom Manzi seconded the motion, which passed, 5-0.

Public Input

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

No one came forward to speak

Field Changes

There were no field changes.

Minutes

Minutes from **May 24, 2007**, were reviewed. Glen MacWilliams pointed out minor corrections, of which Steve Burns took note.

Motion Barrie Munro moved to approve the minutes of May 24, 2007, as corrected. Tom Manzi seconded the motion, which passed 3-0. David Woods and Lew Stowe did not vote.

Minutes from **June 14, 2007**, were reviewed. Tom Manzi asked for minor corrections, of which Steve Burns took note.

Motion Tom Manzi moved to approve the June 14, 2007 minutes as corrected. Glen MacWilliams seconded the motion, which passed 2-0, with Tom Manzi and Glen MacWilliams voting.

Minutes from **June 28, 2007**, were reviewed. Glen MacWilliams asked for small changes, of which Steve Burns took note.

Motion Tom Manzi moved to accept the June 28, 2007 minutes as amended. Barrie Munro seconded the motion, which passed, 3-0. David Woods and Lew Stowe did not vote.

Steve Burns said he would correct the Minutes as amended before posting them on the web.

Public Hearing

Second Hearing on Site Planning Standards for Temporary Events

Steve Burns explained that the new Site Plan Standards and the accompanying criteria enable temporary events to occur. The **Public Hearing** was opened and closed. No one came forward to speak. Tom Manzi said that the number of participants should be estimated. Also, should the toilet facilities include required water? Barrie Munro suggested requesting the anticipated number of participants and also of vehicles. Lew Stowe said that an agreement about police involvement should be made. Steve Burns said that Police Chief Bracey is interested in staffing the event with or without required standards. Barrie Munro said the police presence should include traffic control.

Motion Tom Manzi moved to approve the Site Plan & Subdivision Regulations including the requests for attendance and parking totals, an understanding of police presence, availability of potable water, and written approval by the chief of police. Barrie Munro seconded the motion.

In discussion, David Woods asked why 25 parking spaces trigger use of this subdivision regulation. The 25 spaces is the number specified in the zoning ordinance, replied Steve Burns.

Vote The motion passed, 5-0.

Application Reviews and Public Hearings

Zacharias Farm – BBQ Festival. 7 Colby Turner Lane. Map & Lot: 0085-0025. Application for Site Plan Review for a one-time BBQ festival

Applicant Dennis Sherman stated he was there for a final determination. The Chairman opened and closed the **Public Hearing**. No one came forward to speak.

Glen MacWilliams said the site plan for the event does not show the location of the toilets and the water. Barrie Munro asked about the size of the acreage dedicated to parking and the estimated number of vehicles to be parked. Dennis Sherman did some calculations on his fingers. On four acres, he expects to park 650 vehicles, which would bring 1,500 people to the festival. David Woods asked about the rain and mud condition that might arise. Dennis Sherman said that John Zacharias has placed the parking on the best-drained part of his field. The mud would not go onto Birch Hill Road, the nearby main road, he said. Glen MacWilliams asked about Rogers Brook, and after discussion, it was agreed that barriers, made by a silt fence or perhaps hay, would be used to help keep the brook clean. Glen MacWilliams went over criteria from the site plan regulations, including pedestrian safety. He asked about plan approval by the chief of police, which had not yet been obtained.

Motion Barrie Munro moved to conditionally approve the application for the Zacharias Farm BBQ Festival, pending written approval from the police and fire chiefs. Tom Manzi seconded the motion, which passed, 5-0.

York Village Business Center Amendments 14 Cider Hill Road. Map & Lot: 0053-0009. Amendment to the approved plan to divide the lot in two

Steve Burns told the board the sign issue had to be resolved. Without it, nothing could go forward for the applicant. Also, earlier that day, abutter Scott Franklin had spoken to Steve Burns about the floodlight still shining at his house from one of the business center buildings. Steve Burns said the problem with the overhead light had since been straightened out, and the light was off. Scott Franklin had also told Steve Burns he was concerned about the excavation, which had come too close to his property. Workers were digging 12 feet from the lot line, when they should stayed at 18 feet. The incorrect excavation work was due to the builder's working off the wrong plan. It had resulted in a stop-work order that will be enforced the issue is straightened up.

Rick Wesley, co-owner of project, said that his group had been unaware of the light issue. The light is on a building they had built and already sold. He asked the new owner to deal with it. The light is turned off and will be capped off the following day.

Attorney Tim Keiter said the Code Enforcement Officer Tim DeCoteau had approved the signage application on June 1. No appeal was filed in the ensuing 30-day period. He said the language in the ordinance is ambiguous in that it does not state if signage is based on a per-business or per-wall basis. The CEO had sent him a letter saying that it has always been interpreted on a per-wall basis, and that the disputed interpretation should be in favor of the applicant. Tim Keiter showed photographs of various businesses around York that have signs larger than 24 square feet of signage per business. He showed elevations of the subject building, the Rite Aid pharmacy, with its proposed signage. As well as the sign over the door, smaller signs are planned, indicating signs for the One-Hour Photo, the Food Mart, and the Drive-Thru. He asked for the right to re-address the signage at a later time, if necessary. He asked the board to accept the CEO's interpretation of the code.

Glen MacWilliams opened the **Public Hearing**. Abutter **Scott Franklin** described the excavation on the east side of his property Steve Burns had described earlier. Under the overhanging branches of the large, mature trees, no flat ground has been left, at all, because of the excavation. He did not see how there would be adequate room for additional trees and a fence. No one else came forward to speak. The Public Hearing was closed.

Steve Burns described the trees and the excavation. He was not sure about the location of the planned fence. Jim Hanley of Engineering Alliance said the proposed fence would be five feet beyond the applicant's property land. Glen MacWilliams asked if the landscape architect could take another look at the fence location.

Steve Burns said that he had spoken to the Town Attorney about it. The attorney said that per 16.2.1, the signage is clearly the Code Enforcement's purview. The fact that the CEO's permit existed for more than 30 day after it was first issued on June 1, means that time already expired for the Planning Board to go in and say that it is not a valid sign permit. The appeal period has clearly expired.

Barrie Munro commented that he wants the board to avoid this kind of altercation in the future. Steve Burns replied that the CEO has been doing the sign permits interpretation this way for years, but the Planning Board has not changed the code; it reads that signage is by business premise.

As an agenda item, York Village Business Center had come with an application to divide one of the lots at the center into two. Steve Burns said that the new application could not be presented because 30 days had not yet passed since the conditional vote over the signage was made. The application to divide the lot into two will be taken up in August.

Motion Tom Manzi moved that the decision has been resolved with regard to signage, allowing this application to move forward. Barrie Munro seconded the motion, which passed, 5-0.

The board members agreed to take a site walk of the York Village Business Center Property on Thursday, July 26, at 3:00 in the afternoon, to survey the Scott Franklin situation. Steve Burns said he would make the proper postings to make the site walk official.

Brixham Grange Change of Use 435 Cider Hill Road. Map & Lot: 0089-0038.
Application for change of use pursuant to preservation deed

Art Guadano of AG Architects, said an approval for change in use and minor exterior landscaping was being sought for the Brixham Grange, per its Historic Preservation Deed, which requires review and approval not only by the Planning Board, but the Historic District Commission as well, which had been granted last week. The grange was most recently a Montessori School and had, in past months, received planning board approval as a 2,500 square foot retail store. The addition of a 15-seat restaurant was being requested, the kitchen for which, in the back of the building, would also be utilized as a catering business for Michael Specker, also present and representing the owner. Art Guadano said that the minor improvements include the addition of a handicap ramp at the entrance of the building, which would be concealed behind a stonewall, and modification of the front steps. There are 18 parking spaces next to the building. The utilities and phone are already underground. Propane tanks to facilitate the cooking equipment already exist at the back of the building. The required range hoods would be in the back and unseen from the road. The same with the enclosed dumpster.

The chairman opened the **Public Hearing**. No one came forward to speak, so it was closed. Steve Burns said that this historic building application is not subject to site plan regulations. Applicant Art Guadano said that the State of Maine is requiring a septic system on the property. Currently a holding tank serves the purpose. The site is small, and the soil is "difficult." The application before the planning board would be conditional to septic approval. This caused Tom Manzi to comment that the application deserves full site review, because it does not conform to expectations of landscaping, alone.

When asked, Michael Specker, representing the owner and owner of the proposed restaurant/catering business, responded that he was not exactly sure what kind of food service it would be, but the pertinent decisions about the full service restaurant are being overseen by the Department of Health, which has deemed that the restaurant cannot be considered without a septic system. Board member Dave Woods suggested, based on his own experience, trimming the seating to 12, enabling the use of a holding tank acceptable by State of Maine standards.

Art Guadano showed the board a plan (sketch) illustrating wastewater disposal. Glen MacWilliams said that conditional approvals bother him. Barrie Munro pointed out that

it would be an economic disadvantage to the applicant not to give conditional approval, if the septic is all the State requires.

Motion Barrie Munro moved to approve the application as discussed, subject to the fire chief's approve and issuance of the State Food License. Dave Woods seconded the motion.

In discussion, Tom Manzi said that the application is inadequate with respect to septic and screening. The application warrants a full site plan review, so the abutters know about the site changes. Also, the application shows there are three businesses on the site, including the second-floor function hall. There is one sign that reads "Brixham Store." He also said that he did not feel there was sufficient information to change the use, because the intensity of use is increasing, and the neighbors should be notified about it. The application deserves complete Site Plan Review. Glen MacWilliams had commented that the lack of a landscape plan, the condition set around the licensing, and the proposed change in septic and grading seem to be incomplete aspects of the application.

Vote The motion passed, 3-2, with Tom Manzi and Glen MacWilliams opposed.

Weare Office Park 1450 U.S. Route One. Map & Lot: 0097-0021. Sketch review for two new office buildings at the corner of Route One and Logging Road.

Jeff Aleva of Civil Consultants represented applicant Peter Weare for this two-building office center that will be served by municipal water and on-site septic for which Al Frick Associates has already been consulted. It is necessary for the driveway to cross an unnamed brook to get to the upland for the larger, 8400 square foot building. The installation of overhead utilities would minimize wetland impact, so a waiver will be requested for that element. Barrie Munro informed Jeff Aleva that retention of natural vegetation is expect to maintain a buffer between the large building and Route 1, and Jeff Aleva replied that even after foliage has fallen, it would be difficult to see through the screening, there is so much.

Glen MacWilliams opened and closed the **Public Hearing**. No one came forward to speak. He instructed the applicant that all submittals, even at the sketch level, have to be professionally certified, which is a state law, not just board criteria. The wetland crossing has to meet a "laundry list" of requirements, and proof has to be submitted that the wetland mitigation techniques have been met. Jeff Aleva commented that the wetland-crossing proposal already meets the requirements for the State of Maine. His client has been conscientious of the preservation of the setting. There was no further discussion for this sketch review.

Cape Neddick Village LLC 1132 U.S. Route One. Map & Lot: 0022-0013-A. Review of design for Building 1.

Applicant Seth Spiller said that, two years ago, the planning board had already approved Building 2 for Cape Neddick Village. This Building 1, which sits in front of the other, is

closer to the road, and has similar features, building materials, and colors, as the other building. Hardie Board shakes, alternating walls with Hardie Board clapboards, will lend themselves to a New England look. The building has a lift to accommodate the handicapped, and there is garage access that is unseen from the road. Lightening rods with blown glass globes and a wind vane decorate the roofline.

Glen MacWilliams opened and closed the **Public Hearing**. No one came forward to speak. He commented on the unbroken surfaces along the roofline. The fact that the back wall is immediately next to a residential property has to be considered. Barrie Munro added that, per ordinance, the blank character of that back wall cannot be combined on the same façade as the unbroken roofline, as depicted. Seth Spiller suggested adding little roofs over the existing doorways along the back of the building and continuing the architectural soffit laterally across the back of the building, breaking up its monotony. He added that there are 90-foot trees abutting that wall that contribute to the screening.

Motion Barrie Munro moved to approve the plan, amending it by adding roofs over the existing doorways in the back and soffit coving running laterally across the back of the building. Tom Manzi seconded them motion, which passed, 5-0.

Borkowski Off the end of Woodside Meadow Road. Property located in Kittery. Application for subdivision in Kittery with sole access in York.

Steve Haight of Haight Engineering said that this 5-lot subdivision in Kittery was approved in Kittery two weeks ago with a Memorandum of Understanding and with concurrence from all the public departments (fire, police, public works). The access to this subdivision is through a York cul-de-sac off Woodside Meadow Road. Residents in the new subdivision will pay York for trash removal. The applicant seeks application acceptance from the York Planning Board. Chairman Glen MacWilliams opened the **Public Hearing**.

Abutter **Bob Tarbox** said he did not understand how the application got this far, because there is a five-foot strip Carroll Blaisdell put in place as a barrier to prevent access across the Kittery Town Line. The York Planning Board approved that right-of-way in 1977 and in 1983.

Jeff McConnell said that, like Bob Tarbox, he bought an original Phase 1 lot from Carroll Blaisdell. It was his understanding that a right-of-way at the end of the road was to create buffer and provide assurance that no development from Kittery would take place. The right-of-way blocked further expansion. He asked the board to deny the proposal.

Travis Holland said that deforestation of the five new lots had begun. The new homeowners will basically be York residents, and should have gone through York Planning for approval, he said.

Tom Blaisdell said that his farm and other family property abut this subdivision on three sides, and that the setbacks, which are different in Kittery (40 feet) and York (50 feet), would affect his family as an unfair advantage. He is concerned about drainage off the new subdivision onto his property. For the **Public Record**, he expressed his family's concerns, and he established awareness of the Right to Farm Law in this matter. The subdivision owners must be aware that they border a commercial farm and cannot protest or try to change anything that comes with being exposed to farming activity, like equipment traffic, manure odors, and reactivation of dormant fields.

Steve Burns asked if the Blaisdells were invited to the public hearing on this matter in Kittery. Tom Blaisdell said he was not. Steve Burns said that by an earlier agreement on this matter, Kittery had to notify York abutters about all hearings, and vice versa. Tom Blaisdell showed the extent of his family's land holdings on the plan. They own land on three sides of the rectangular-shaped, proposed subdivision. Steve Haight said that nothing that is proposed affects the Blaisdell's use of the right-of-way. Nothing would limit use for either logging or farming.

Michael Blaisdell spoke next. When asked, he explained that the two branches of the York Blaisdell families go back to a common ancestor centuries ago. He said he had not received adequate information about the subdivision hearings from either town. He is particularly concerned about the impact to water running onto his property. He is afraid he will end up with a new pond on his place.

Corry Tarbox said that this seems to be underhanded planning by Kittery and York, without information about the subdivision being given early enough to Woodside Meadows abutters to do anything about it. People on her street are very upset. She is concerned about the arrangements for police and garbage service and said there should be another hearing.

David Tibbitts, York Conservation Commission, discussed the New England Cottontail Rabbits that dwell on the York-Kittery border. It has been recommended to become an addition to the endangered species list, in that there are only between 300 and 350 in Maine. No one else came forward to speak, so the **Public Hearing was closed**.

Steve Haight commented that the access to Kittery houses through a York roadway is not underhanded. There are examples of that already between York and Ogunquit and other places. There is a deeded right to pass and re-pass in the papers for this new subdivision. The drainage has been designed to drain into the Kittery Land Trust Land, also abutting, not onto anyone's residential property. He noted that David Tibbetts had left, and was not available to discuss the Cottontail Rabbit. He also commented that there is no proof of the New England Cottontail dwelling on the subject property.

In board discussion, Barrie Munro asked about the bearing the 5-foot reserve strip has. Steve Burns said that the strip has to be deeded over to the property owners, but that its existence is not a fatal flaw to the application. Technically, it is not a buffer strip, but a right-of-way reserved to Tom Blaisdell to access his land. Glen MacWilliams suggested

researching the legal conveyance of the five-foot right-of-way at the clerk's office to see if the York Planning Board had at any time made a change in the right-of-way to the benefit of the new subdivision. Lew Stowe volunteered to do so. Steve Haight also offered to have the applicant attorney research the 5-foot strip.

The importance of placing the Right to Farm note in the plan notes was put off for the next hearing, when it will be discussed, again.

Highland Farm Phase 2. 1 North Meadow Lane, and 250 Cider Hill Road. Map & Lot 090-0029-A and 0090-0030. Continued consideration of preliminary review of a major subdivision.

Engineer Steve Haight said that the Trust for Public Lands and the York Land Trust were positioning themselves to purchase the entire 133 acres (12 lots) of Phase 2 and protect Boulder Pond. He said that, if a purchase does not come to fruition, it would be necessary to extend the approval.

There is less than one year remaining in the approval of Phase 1, expiring in May, 2008. Glen MacWilliams suggested having someone representing the applicant come forward every month with a request to extend. He also commented it would be difficult to bring new board members up to speed, if a period of time would lapse before returning to the application. Steve Burns said that deferring the decision by three months would adequately extend the time frame. Glen MacWilliams questioned the value of extending the time allowance so early, when there is plenty of time still running with the approval until next May. Steve Burns said that it keeps one less factor in the equation.

Motion Barrie Munro moved to extend the Highland Farms Phase 1 approval for two years. Also, the applicant should go on a 90-day cycle for updating the situation at Highland Farms, beginning in October. The motion passed, 4-1 with Glen MacWilliams opposed.

Other Business

Director of Development, Steve Burns, relayed the following information.

The outstanding question about the build-ability of the joined, non-conforming lot, which is owned by **Paul Scudiere**, has been answered in the form of a letter from his attorney, Durward Parkinson. The Scudiere lot is not a grandfathered lot.

The **TAGT** Lobster Pound Mylars would be signed, but has an error, according to the water department. The Mylars are flawed in the way distribution block was printed.

Steve Burns brought the **Sparhawk** mylars for signature. The landscaping funds were paid to the abutter.

The meeting adjourned at 12:10 AM.