

York Planning Board
Thursday, October 13, 2011, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Lew Stowe conducted this meeting. A quorum was determined with five people voting: Todd Frederick, Tom Manzi, Torbert Macdonald, Jr., Lew Stowe, and Dave Woods. Alternates Dave Glazebrook and Tom Prince were present. Town Planner Christine Grimando represented the York Planning Department. Nine York High School students from Nick Barry's Political and Legal Studies class attended for a little more than an hour. Patience Horton took minutes.

Public Input

There was no Public Input.

Field Changes

There were no field changes

Minutes

The September 22, 2011, Minutes were reviewed and board members requested corrections.

Motion: Dave Woods moved to approve the September 22, 2011, Minutes as amended. Todd Frederick seconded the motion, which passed, 5-0.

Application Reviews and Public Hearings

Bait Shed for York Town Dock #1; 2 Harris Island Rd., Map & Lot 0057-0055-A.
Review of a Floodplain Management Ordinance Conditional Use Permit for a bait shed.

Dave Gittens of the Harbor Board brought lobsterman Nick Donnell to help explain the situation to the Planning Board. Dave Gittens said the ultimate goal in expanding the bait shed would be to build it equal in size to the one that is there. That will allow a 200' addition, 20 x 10. He said he does not have the technical knowledge to explain the construction. Town Dock 1 had just been rebuilt. The added foundation for this application shed is already built. It is attached to the current bait shed. A shorter length will give added character to the design. It will be built of pressure treated lumber, except the rafters. The design calls for scuppers to allow floodwater to go in and out.

Christine Grimando said this is a floodplain application. Last year's Hancock Wharf was a similar project. There are certain criteria for the floodplain application. The buildings

have to be small. In the Hancock Wharf case, the slightly larger building triggered the flood proofing review, which is an expensive construction process. Dave Gittens said that one-third of the addition in this case is over the land, and two-thirds are over the high tide mark. The 200 square feet are inadequate in size, and a greater size is desirable. He hopes that by changing the size allowance of the ordinance standards before building the new bait shed, it will be even in size with the other bait sheds in York Harbor. Commercial fisherman in York Harbor will have the opportunity to have space there. Some already have space elsewhere.

Chairman Lew Stowe opened the **Public Hearing**. Lobsterman **Nick Donnell** said that because the original bait shed had to be moved off the end of the dock, some lobstermen had to be moved out. The old shed was narrow and the square footage and was smaller. It was on less-than-sturdy pilings.

Motion: Torbert Macdonald moved we approve the conditional use permit to Bait Shed for York Town Dock #1, 2 Harris Island Rd., Map & Lot 0057-0055-A. Todd Frederick seconded the motion, which passed, 5-0.

Sohier Park Visitor Center Expansion 11 Sohier Park Rd, Map & Lot 0029-0020.
Review of an application for an expansion of the existing visitor center, a revision to a previously approved plan

Project designer Nick Isaac worked on this Shoreland district visitor center, for which there is a master plan. With this phase of the build-out, the most outstanding issue for this building, the impermeable, is increasing by 630 square feet, not reaching the allowable 27.5% coverage. An impermeable of 2,000 square feet has been grandfathered and cannot be exceeded when the final build out of the master plan. The current building will double in size.

The restrooms will not be moved. A path will lead in from the roadway from either side. The building is being doubled toward the parking lot. The existing building has a porch. Currently, there is one large gift shop. The number of women's toilets is being doubled. The parking lot paving is being reconfigured to provide necessary redirection of impervious to allow expansion of the building.

The Chair opened the **Public Hearing**. **Steve Dunn** said his wife owns Fox's Lobster House. The Visitor Center greatly needs a change. It is the focal point for the town residents and for many other people. He asked the Planning Board to put in a Plan Note requiring the bathrooms to stay open until 9:00 P.M. In the summer, it is closed too early, as cleaning people come in at 6:30 at night and then lock the bathrooms up, and then the public goes to the restaurant toilets. Dave Woods suggested putting the bathrooms on timers.

Ed Mac Gorman, Chairman of the Sohier Park Committee, said the 12 X 12 gift shop and welcome center have been there since 1993. We vitally need this change to the 12x12 gift shop, he said. In the beginning, there was little merchandise, and donations

exceeded the sales. In 1998, DOT sold the Nubble to Sohier Park for \$1. The Coast Guard continued its responsibility for the light. Because of the increased expenses of the park, it became evident that more sales would be necessary. Today, because of the profits of the gift shop, the park does not cost the Town a penny. Last year, the little store brought in \$277,322.62, all with volunteers and one paid Town employee overseeing operations.

Busloads, continued Park Chairman Ed Mac Gorman, come in. These restrooms are most likely the only ones passengers will see in York. These bathrooms are totally inadequate in their current condition. The bathrooms always get locked up in the evening when volunteers finish their final shift. That is at 7:30.

Torbert Macdonald asked how wedding fees are administered. Ed Mac Gorman said are no fees but that donations of \$25 to \$100 are received for each of the 20 to 30 weddings that occur per year. An ordinance would be impossible to enforce.

Project designer Nick Isaac said no handicapped parking spaces would be removed under the new design. Dave Woods had pointed out that, according to this plan, two handicapped parking spaces were apparently being eliminated, though they had been built into the master plan.

Dave Woods noted that the southeast side of the building property, facing the ocean and on to the Nubble, is to be reclaimed with loam, grass seeds and jute mat. Nick Isaac said this meets the challenge to create permeable in this phase and as keeping with the master plan. The patio does not require permeable pavers because we are creating enough permeable for this phase, he said. If you went to permeable pavers, said Torbert Macdonald it might be the solution to the seeded grass and loam area. We don't want to build anything that might be torn up later, but the patio area might be a permanent solution, said Nick Isaacs.

Town Planner Christine Grimando said that the application is a revision to a previously approved plan, including a Shoreland permit. The biggest issue is how to keep within lot coverage limits when the master plan is built. The Master Plan needs approvals that the Site Plans do not need. It is an unusual process. When there are any new uses for Sohier Park, they have to be approved by the Planning Board, the Board of Selectmen, and the Voters.

Christine Grimando summarized the Planning Board's immediate concerns: the handicapped places should be by the building and that the vegetation planted on the eastern side, where the pavement will be taken up, must be the most likely to survive. Two Mylars will exist, one for the current, and one for the proposed master plan. A provision must be made that the impermeable does not exceed 27.5%.

Michael Sullivan of York Parks and Recreation said handicapped parking would be moved to the desirable location, following the requirements and the Planning Board's suggestions. The parking is not on the current plan. We are paying attention to the im-

permeable situation, he said. It is a high profile area, and there are concerns of the park that are not relative to the building. It took six years to get the master plan approved.

Christine Grimando said the scope of the approval would require ADA handicapped spaces, heartier vegetation, and that the master plan does not exceed 27.5% impermeable.

Motion: Torbert Macdonald moved we approve this phase of the Sohier Park with the following conditions: that it is assured that parking is ADA compliant with some spaces adjacent to the welcome center, and that the work to be done around the building is done with permeable pavers that are compliant with the master plan; that the strip in the southeastern area treated with loam, seed, and jute will be evaluated for heartier vegetation, such as *Rosa Rugosa*, or permeable pavers in that in the master plan; and that all the work shall be done in the parameters will not exceed 27.5% at this stage and for all eternity. Todd Frederick seconded the motion.

In discussion, the board members recognized their ongoing desire to avoid conditional approvals like this. Michael Sullivan said that work would not begin until fall, 2012, and that there is no strict time line. The motion was then withdrawn and it was decided that Christine Grimando would prepare a document with the same points. Parks and Rec. will return to the Planning Board for approval at a later time. The hearing for Sohier Park ended.

Phillip's Farm Revised Subdivision Plan: 5, 7, 9 & 11 Phillips Cove Rd., Map & Lots: 0200-0001-E/F/G/H. Revision to a Previously Approved Subdivision plan: application to combine 4 lots into 3.

Town Planner Christine Grimando said there are no building or setback issues. This was a cluster subdivision. There is open space on the other side of the road. There are no dimensional impacts like creation of a nonconforming lot.

Engineer Bill Anderson said Bill Mitchell originally subdivided the property in 1998. His sons wanted to keep the cottages that are there. Since, Ken Erickson has bought four cottages that have been removed and the land has been reseeded and regraded. The three proposed lots are wider than for the first subdivision. The setbacks and buffers have been kept as close to the original as possible. The septic systems stay the same.

The Chair opened the Public Hearing. Owner **Ken Erickson** said that to make it more aesthetically pleasing, the number of lots was reduced to three. The subdivision had a covenant that stated homes have to be 2500 square feet. There are no restrictions in the covenants on prohibiting changes in the lot lines.

Christine Grimando said the property is subject to current cluster standards for 15' setbacks. Zoning could be different because clusters are treated differently. There are 12 other property owners. The owners cover the cost of paving.

Dave Woods said that in the motion, we should reference that our approval will not come into conflict with any deed restrictions or covenants.

Motion: Dave Woods made the notion that we approve the make Phillip's Farm Revised Subdivision Plan: 5, 7, 9 & 11 Phillips Cove Rd., Map & Lots: 0200-0001-E/F/G/H, as presented to the Board, with the stipulation that our approval is not superceded by any covenants or deed restrictions. Torbert Macdonald seconded the motion, which passed, 5-0.

Barrell's Grove: 59 Beech Ridge Rd. Map & Lot 0086-0045-A; Continued Final Review of a Major Subdivision application.

Town Planner Christine Grimando said the application was first reviewed in June 2010, at which time two sketch reviews were done. This hearing will identify all the items that are left open. Twelve items listed in Christine Grimando's Memo to the Planning Board dated July 7, 2011, guide this review.

Project engineer Bill Anderson said soil scientist Dick Sweet had reviewed the hydrogeologic study and found no major changes regarding the effect on the area made by the two septic systems. Dick Sweet had dug 10-foot test pits and took samples of water, which showed the nitrate levels were fine. Permeability caused by cracks in the soil was basically nothing, he said.

An application for the DEP stormwater has been made, said Bill Anderson, with the biggest concern about how stormwater is treated before it leaves the site. Extra runoff will be collected in a ponding area for both pre- and post-treatment. Water spilling from that pond will cascade through the buffer, filtering the stormwater. He showed the board where buffers that have to be undisturbed in perpetuity will be.

Buffers on individual lots cannot be put on the plan without knowing where the houses are, said Duane Jellison. DEP is aware of that, he said, and buffers will be noted later.

Bill Anderson said the archeological restrictions are located in an area next to the area where the houses will be. The buffers are designed to the maximum size of the house.

Fish & Wildlife said there are concerns about the strip around the edge of the property, said Bill Anderson. York has a restrictive ordinance with 50' between high and low water for dock placement, and no place on this land can meet that. So there will be no docks. With the vernal pool that DEP has declared is on the property, driveways 1 and 2 will have a combined driveway, and 3 and 4 will also.

There was an email from the Corps of Army Engineers indicating that, though the study had already been done, they want a 100' setback from the vernal pool. We had been 62 feet from the vernal pool, said Bill Anderson. The Corps asked them to move the driveway requiring wetland fill in other spots.

Chairman Lew Stowe opened the **Public Hearing**. **Sandra Blaisdell Brown** said she is responsible for selling the property to the Jellisons. She is paying the property taxes and wants the waiting to end. She described tents, trashcans and bonfires that have been going on all over the property. Her family has had the land since the 1700s and she recently found a property tax bill from 1779.

Linda Goulette lives on Deer Run near the septic system. She said she has been attending hearings since they began. She told the board to make sure that all open items will be closed. The drainage plan has to be complete. All T-s have to be crossed and I-s dotted.

Christine Tennant, 17 Deer Run, said the septic is behind her deck. Her basement is flooding from all the recent rain. She is suspicious of all septic tanks going into one leech field. She asked for more information about the drainage pond. The Chair closed the **Public Hearing**.

Issues

1. State Approvals: Christine Grimando said DEP feedback is the largest substantive open item. Also open, Department of Human Services review of the septic system could propose changes to the site. The applicant should organize a pre-application before the meeting with DHHS.

State approval for the vernal pool on Lot 4 is open. The pool significance form originated with Bud Brown has not been forward to the Planning Board. Christine Grimando said, **for the record**, “We haven’t received a peer review for the natural recourses issues, and we need to have it.”

Continuing with State Approvals, Torbert Macdonald said buffers in the sensitive areas runoffs are no disturbance buffers. “No disturbance” means no digging. DEP is recommending “no disturbance” in the Shoreland zone and the archeological zone. He suggested a motion mandating a 100-foot buffer along the York River and the Dolly Gordon Brook, but it was not seconded. Bill Anderson said those buffers would be covered in the reply coming from DEP

Duane Jellison said, referring to “widow-makers,” that if no-cut zones are not required on other properties along the river, why is this piece of land any different? Christine Grimando said trees could be taken down if they are hazardous. David Woods suggested having an arborist come in to maintain healthy trees. Christine Grimando referred to 8.3.3, with a no-cut within 75 feet of the water in some areas zoned resource protection, but there are certain sensitive areas that are not to be cut at all. The Planning Board cannot approve State Approvals as complete until the review of the final recommendation report arrives from DEP. Christine Grimando said, **for the record**, “Planning Board is responding to State feedback we are just beginning to get.”

Christine Grimando said the vegetation strip should be preserved within a strip extending 100 feet from the River and its tributaries. She emphasized limitations in the no cut zone,

but said that selective cutting is allowed under certain conditions. Duane Jellison understood equipment cannot be brought in the archeological area, but a homeowner has to be able to trim a tree for a better view. Christine Grimando referred to “further restrictions.”

The State Approvals for a **dock**: if the dock ordinance were to change, the applicant would be able to put a dock in. Otherwise, no docks will be allowed.

2. Open Space. The requirement of how the Open Space requirement has been put in writing by the applicant, said Christine Grimando. A 100-foot by 100-foot recreation space, in perpetuity, was offered. Mike Sullivan had not had a chance to review the offer. Torbert Macdonald read from 7.13.3, “. . .there must be suitable access for the proposed uses of the site and have both a depth and width of a least 200 feet.”

Motion: Dave Woods moved we make that we approve the open space as on Sheet 1 of 18, dated June 24, 20 11. Todd Frederick seconded the motion.

In further discussion, Torbert Macdonald said that that board has been trying to get the applicant to commit to any one of three possibilities for the open space. What they’ve offered is not up to code. He said that they did not bring back anything Michael Sullivan had signed.

Vote: The motion passed, 3-2 with Torbert Macdonald and Tom Manzi opposed.

3. Peer Reviews. Christine Grimando said three of the required reviews have been approved. Both Erosion control and Stormwater were approved by Oak Engineers (or their subsidiary). Ben MacDougal’s peer reviewed on controlled septic is substantively complete, but he is not ready to give his final letter. The hydrological assessment has been finished.

3. Grading and Landscape Plan. The applicant has given a written explanation of how a Landscape plan has been net.

Motion: Dave Woods moved to accept the completeness on the Grading and Landscape plan. Todd Frederick seconded the motion, which passed. 3-2, with Torbert Macdonald and Tom Manzi voting against.

4. Defensible Space. Christine Grimando said the applicant has made reference to the Maine Forest Service. Clear cutting lawns around the house will be problematic in the Shoreland Zone. Even outside the 100’ area, restrictions still exist. In the memo she had prepared, Christine Grimando said that, because of possible conflicts with 8.3.2 and 8.3.3, individual building lots would have to get the Shoreland permits to demonstrate they are not excessive.

Motion: Todd Frederick moved that the maintenance of Defensible Space around homes will not violate the standards if York Shoreland Zoning is applied. Dave Woods seconded the motion, which passed 4-1. Torbert Macdonald opposed the motion.

5. Performance Guarantee: Christine Grimando has met with the applicant, and she feels the Town is “covered.” She asked to note in the minutes that #5, Performance Guarantee, is no longer on the open list.

6. Enforcement of Cutting Christine Grimando said every property owner is subject to local codes. Applicant representative, Nick Jellison, said every property owner would have a copy of everything in the plan, protected deeds, and ordinances--so people will know what the restrictions are and what they can and cannot do. This item is now closed, he said.

7. Other Departments and Safety Concerns: Christine Grimando said that all departments have indicated there are no safety concerns. The board will see the final drafts. a

8. Protective Covenants. The entire conservation easement is not referenced. The Plan of Preservation looks partial on the plan. The board will see the final draft to tell if it is consistent.

9. Driveway locations. Christine Grimando said driveway locations are of no concern to the board and is off the table.

10. Vernal Pools. Christine Grimando said the Bud Brown document was submitted and DEP has required protection of the vernal pool. No action is needed, and the item is off the table.

11. Wooded Cul-de-sac Requirement: Part of the cul-de-sac center is used for drainage. Plants have been added to make it look vegetated. The item is off the table.

12. Shoreland Notes: Christine Grimando said the Board will vote on conformity with Shoreland, subregs, and wetland review. The Shoreland review has been altered to 8.3.3 and 8.3.2. The item is off the table.

Christine Grimando said the York County Conservation District would hold reviews of sediment and storm water as the buildings go up, as individual homeowners pull permits. Duane Jellison said he would have buyers arrange their soils conservation surveys.

In the final minutes of the meeting, Torbert Macdonald read 5.7.1. He and Duane Jellison talked about making the 200-foot by 200-foot field natural. Duane Jellison offered to move the 100 x 100 foot field and said it would be agreed at the next review.

New Business

Old Business

- **York Hospital Findings**

The meeting ended at 10:50.