

**York Planning Board**  
**Thursday, August 10, 2017, 7:00 P.M.**  
**York Public Library**

**Call to Order, Determination of Quorum; Appointment of Alternates**

Chairperson Amy Phalon called the meeting to order at 7:00. A quorum was determined with five people voting, Amy Phalon, Vice Chairman Peter Smith, Board Secretary Gordon Eldridge, Al Cotton, and Lew Stowe. Alternates Wayne Boardman, and Kathleen Kluger were present, but did not vote. Patience Horton was the recording secretary. Lee Jay Feldman represented staff during the Beach Parkway application. York Director of Planning Dylan Smith represented staff during the other applications.

**Public Forum**

No one came forward to speak.

**Field Changes**

There were no field changes.

**Public Hearings – Applications**

**York Beach Parkway Map/Lot: 0094-0077; Owner: Town of York**

**This plan is an amendment to a previous approved plan to incorporate a new property boundary survey reflecting new boundaries between the Town of York, York Wild Kingdom, the Horn property, and the Cragin property. The amendment also includes removing the previously approved Police Station building. Lastly, the amendment requests that the vesting window be renewed with a two year extension to complete construction of the approved and permitted road.**

In attendance were: York Town Manager Steve Burns, representing the applicant, the Town of York; Steve Bradstreet, serving as Town Engineer and spokesman for the application; and Lee Jay Feldman, the Director of Planning with the Southern Maine Planning and Development Commission (SMPDC), who is serving as Town Planner for this application in place of Dylan Smith. Also present were Liz Blanchard, Robert Palmer, and Todd Frederick from the York Select Board.

It was noted there had been a site walk on Thursday, August 3, at 4:00pm. Select Board attendees were Liz Blanchard, Todd Frederick, and Robert Palmer. Planning Board attendees were Lew Stowe, Al Cotton, Pete Smith, Gordon Eldridge, Kathleen Kluger, and Wayne Boardman. The group walking the site, including Town residents, totaled 32 people.

Motion: Al Cotton moved to accept the application for York Beach Parkway Map/Lot: 0094-0077 for review. Gordon Eldridge seconded the motion. There was no discussion. The motion passed 5-0.

Lee Jay Feldman introduced the application. The plan being reviewed tonight is exactly the same as that which the Planning Board approved three years ago as part of the police station project with three exceptions. First and primarily, the Town requests a two year extension of the construction vesting period, which should be long enough to complete the parkway construction. There are letters with the application from both the Maine DEP and the Army Corps of Engineers which confirm that the previously approved permits are in continuation.

Lee Jay noted that the applicant is obtaining a third-party independent inspector who will oversee construction on a daily basis and provide weekly logs to the Planning and Code Enforcement Offices. If there are issues that arise during construction that do not meet the design standards, they must be reported by the third-party inspector to the CEO immediately. The CEO has the authority to stop the project until corrective measures can be taken.

The full set of plans has 49 individual sheets.

Engineer Steve Bradstreet described the actions to be reviewed tonight. The project primarily has three elements.

- 1) Extension of the vesting period for the existing project that was approved on August 14, 2014, which will allow the road to be constructed and finished.
- 2) Acceptance of revised boundary surveys for Town of York, Wild Kingdom, Horn, and Cragin properties which have been changed on the plan.
- 3) Removal of the police station structure and associated elements from the plan.

Steve Bradstreet explained that there are two permits from DEP that have extensions or amendments, and one permit from the Army Corps. Dates when the permits will expire are in an email from DEP and Army Corps which Planning Board members have received.

There is a considerable amount of construction material that was purchased for this project, he said. It is stored either on site or on other Town property, waiting for the project to begin. The inventory includes several box culverts that will have natural stream-bottom material to allow clear passage for aquatic life.

Motion: Al Cotton moved to open the public hearing. Pete Smith seconded. There was no discussion. The motion passed 5-0.

- Ted Little of 11 Meeting House Lane asked that the upcoming public comments be kept short, specific, and on point to the conversation. This application is specifically to allow an extension for completion of the construction of the already approved, permitted parkway. Other discussion should not be allowed.

The voters approved the design and construction of a parkway that can deploy public safety and emergency vehicles throughout the town.

- Ron Nowell of Cape Neddick has an objection to the name of the road. Usually the town uses a geographical, historical, or topographical name for new roads. He would like to see it named after the pasture the road replaces. There is nothing in Town regulations or ordinances or State law that gives the York Planning Board any say in laying out a public right of way, he said. You are like Don Quixote. You are tilting at a windmill. You do not have the right to do any of this.

Al Cotton interrupted the public hearing to explain that the Green Enterprise Recreational Overlay, a mixed use area, and the creation of a road between York Beach and Route 1 are stated in the Comprehensive Plan as immediate priorities for the Planning Board.

- Stephen Bracciotti and his son have lived on Ridge Road Trail for 33 years. He does not see the new road as a parkway and would like it to have a different name. He has come tonight to support the new road. “We are here to approve the final endeavor of creating it. We should have been driving on that road a long time before this. Consider the improvements in health, safety, and quality of life that the road would have brought to the beach, if the road was already made.” Are street lights planned? Can shoulders on his end of Ridge Road be paved? He is legally blind, walks with a cane, and walks Ridge Road often.
- Bertha Rocray has lived on Ridge Road since it was a back road, 48 years ago. She went on the site walk. People walk and run on Ridge Road, and they would benefit by having shoulders or sidewalks put in. York Beach is a town destination and Ridge Road is currently the primary connector road—and the traffic is horrendous! Tonight we counted 10 cars a minute going past. On Sundays, there are 20 cars a minute.
- Salvatore Sala has lived in York Beach since 1983. His property abuts the proposed parkway, and he sees it from his back yard. “You are destroying a whole neighborhood by putting this road in,” he said. “There is already noise there from Route 1. It is deafening. Is it possible to put screening in to muffle the sound, maybe four or five rows of pines? Our quiet neighborhood is not going to be quiet anymore.”
- York Beach Fire Chief Dave Bridges said this road has been a long time coming, and it is going to solve a lot of problems. Emergency vehicles will be able to get on Route 1 without going the wrong way through the center of town, though he’ll need to go that way sometimes. Having two ways to get people out after fireworks will be an advantage to the emergency vehicles.
- Barry Leibovitz attended the site walk and went on a site walk several years ago, too. There was a big difference between the first and second one, with so much growth, he said. A lot of cleanup work is needed. He would like to have the weekly notifications by the third-party inspector made public. The police station was mitigated by taking the foundation out, but he has not heard of any mitigation for the

- clear cut area. He needs to see headlights blocked. Will traffic be backed up on Route 1? Some people will be forced to use Rogers Road if the parkway is blocked.
- Torbert Macdonald. The impacts the road has on Ridge Road and Route 1 have not been resolved. What are you going to do with all that traffic? The 10% match the Town has to come up with for the traffic light has not been budgeted. What are you going to do then? Originally, there was a site location development permit stipulating that construction had to preserve the natural resource base. When the envelope for the police station and the parking lot were cut out, the rest was to remain natural, but it was clear cut. That was July, 2012, when then-Town Manager Robert Yandow blew up the project by ordering the construction companies to and proceed without having any permits in hand. They did the whole thing without any legal advice whatsoever. As Chairwoman of this Board, he said to Amy Phalon, you have the ability to go to the town attorney with any questions you may have, and you should go, because this is being railroaded. This is no gun to your head or extortion, but “they” have come to you for approval four days before the so-called permit expires. I know three board members [a quorum] can step outside of this and do the right thing. I hope you do.
  - Barry Johnson, York Beach. The cost of a parkway like this is usually determined by cost per mile, which will be between \$1.7 million for a collector road or \$2.75 million, if it is an arterial road. The difference is in the width. I have lived in this town since 1985. Every construction project the Town has touched has had cost overrun. Do you want to go back to the taxpayers and say, “Oh ‘gee,’ we miscalculated?” I think, before you go forward with your decision, you had better figure out what percent of the money has been spent and how much more is needed to meet the requirements. You also have a very good opportunity to add a dog park.
  - David Chase does not like the word “parkway.” There are very few connections between Route 1 and the beach areas. Now that the road has been approved, it is essential that it is built. It is important to developing the Growth Zone. The York Beach Fire Dept is responsible for responding to half of the emergency calls in town. Currently they have to get there in a dangerous way. Right now there is no Green Enterprise zone because there is no access. That is very important. There have been many attempts to have the road go along the Wild Kingdom road. The owners have never agreed. That has resulted in this road being laid out by default. Let’s get it done. I hope that tonight, the next step in getting it done will be accomplished.
  - Todd Frederick, 581 Cider Hill Road, current Chairman of the Select Board, said he was on the Planning Board three years ago, when the application was approved. He said that the Town Manager and the Town Engineer have stated that the road can be built with the funds we have. We would hope the Planning Board would move to extend the application with the conditions that have been discussed tonight. The people have voted for the road all four times it has come before them in referendum. You, the Planning Board, are here to make decisions based on what the public says and to follow Town codes and State laws.

As a member of the Select Board and as the former Chairman of the Planning Board, I can say that working together, the two boards have done that. We have put what needs to be put into place. The citizens of York are ready to get this road done. "Get behind it," he said directly to the planners, "and then move on."

- Stephen Bracciotti spoke again. There might be a stonewall of historic significance on the Cragin property. Someone should check to see if the wall exists. I hate to see somebody bulldoze it.
- Amy Phalon read a letter dated August 3, 2017 from Bob Johnson, who could not attend the site walk or this meeting. He had been appointed as an overseer during the York Beach consolidation process. He urged the board to slow down and stop further financial drain. There have been costly mistakes caused by improper, and at times illegal, fast-tracking of the original road process. There are two critical questions. Why is the road needed? And what must be done if it is going to be successful? He wants there to be better traffic studies, especially to analyze traffic gridlock after the fireworks.

Motion: Pete Smith moved to close the public hearing. Al Cotton seconded. The motion passed 5-0.

Steve Bradstreet said that an associate at Ransom had revisited Gorrill Palmer's 2014 traffic report and confirmed that the report was correct. It appears the Town wants to go forward with ME DOT decision to put the traffic light at the intersection, Steve said. However, that traffic light project is not part of this project.

Motion: Al Cotton moved 1) that the approved and permitted road be renewed with the extension to complete the construction; 2) that the new property boundary survey reflects the new boundaries between the Town of York, the York Wild Kingdom, the Horn property, and the Cragin property; and 3) that the previously approved police station building be removed from the plan. The conditions of approval are that the survey plan will be signed by the surveyor; that the applicant will retain a third-party independent inspector; that the police station and relative monumentation will be removed, which has been done; that all culverts within the project will be designed to be habitat friendly; and that any other or additional uses on the property shall require Planning Board approval. Gordon Eldridge seconded the motion.

In further discussion, Town Manager Steve Burns said that Brett Merritt is the contact person for the Cragin property. There was a separate approval to redesign the Cragin parking lot, but that has expired. There is a garage they requested, and it is on the site plan. We agreed to do the work for them. We are the ones who altered their property. There were conditions that deal with water and sewer, too. As for the name of the parkway, I just made it up.

Al Cotton moved the motion. The motion passed 5-0.

**117 Long Sands Road, York Housing Authority; Map/Lot: 0044-0050**

**Application is a modification to the onsite stormwater management plan per Maine Department of Environmental Protection (MDEP) requirement of approval.**

Applicant Patricia Martine, director of York Housing Authority, was present with Jeff Clifford of Altus Engineering, Portsmouth, who served as spokesman.

Jeff Clifford said that the application was not approved at the last meeting because a pipe, which was considered a structure, extended into the 100 foot buffer. At that time, Dylan Smith and Jeff Clifford met with the applicant and shoreland officers. A new stormwater area, which entailed moving the pipe and headwall out of the setback, was designed.

Motion: Pete Smith moved to open the public hearing on 117 Long Sands Road, York Housing Authority Map/Lot: 0044-0050. Al Cotton seconded. The motion passed 5-0. No one came forward to speak. Chairwoman Amy Phalon closed the public hearing.

Motion: Pete Smith moved that we authorize the Chairwoman and the Board to sign the Mylars for 117 Long Sands Road, York Housing Authority, Map and Lot: 0044-0050. Al Cotton seconded. The motion passed 5-0.

**Wiggly Bridge Distillery, 445 and 441 Route 1**

**Map/Lot: 0054-0010-C and 0054-0010-B; Owner David Woods**

**Application is for construction of a new storage building on Lot 0044-0010-C and for replacement of an existing nonconforming structure with a new building in the same footprint on Lot 0054-0010-B.**

This application is to remove two storage containers that are directly behind the distillery and replace them with a stick-built building with a relatively flat roof. That building will be no higher than the containers it replaces. In addition, a pole building will be constructed to be used for aging beverages. This new building is within code, being 24 feet high with 16 foot sidewalls. There will be a gravel road going into it. The building will not be visible from Route 1.

Motion: Pete Smith moved to open the Public hearing for Wiggly Bride Distillery, 445 and 441 Route 1 Map/Lot: 0054-0010-C and 0054-0010-B. Al Cotton seconded. The motion passed 5-0. No one came forward to speak. The Chairwoman closed the public hearing.

Motion: Al Cotton moved to accept the application for Wiggly Bride Distillery, 445 and 441 Route 1, Map/Lot: 0054-0010-C and 0054-0010-B, and to grant waivers for 6.3.27, Drainage; 6.3.32, Soil Survey; 6.4.6 Landscaping Plan; 6.4.15 Erosion Control; 6.4.28 Financial Capacity; 6.3.7 Stormwater Plan; 6.3.10 Landscaping of Bufferyards; 6.3.13 Elevation Drawings; and 6.3.21 Performance Guarantee. There will be a further note on the plan requiring that any lighting that might be added must meet the standards of 6.3.6.;

Code Enforcement approval is a Condition Subsequent for replacement of the storage shed. Pete Smith seconded. The motion passed 5-0.

**Clay Hill Subdivision, 40 Clay Hill Road. Map/Lot 0096-0093;**

**Owner(s): Richard & Michelle Knight, Patricia Donnell.**

**Application is a sketch plan for a 13 lot subdivision that proposes constructing two roads to access the it from Clay Hill Road.**

In a sketch review on December 8, 2016, application spokesperson Dave Garvey, who is here with surveyor Isiah Plant, proposed a 124-acre conservation subdivision located in a stream protection district of the RES-2 zone. The land has two significant vernal pools that have been studied and mapped. The Josiah Brook runs through the property, dividing the front and rear portions. They have approached York Land Trust to purchase the rear 71-acres. Dave Garvey and Isiah Plant will very reluctantly develop the rear 71-acres as a second phase if the Land Trust does not purchase it. The land trust has not come forth.

Dave Garvey said that, as of last December, the conservation subdivision was their preferred option. The conservation cluster design would allow more acreage to go to the land trust. But that's out. We need to move forward, he said. In this newly designed 13-lot conventional subdivision, we strive to protect the environment the best way we possibly can. The vernal pools are considered and respected. The brook was to be the common area for the conservation subdivision. It will now be protected for the community with the least amount of impact possible. There is some wetland that will have to be crossed. There will be an easement for the walking trails that exist now. The subdivision will have two internal roads designed in a way to create the least disturbance.

Chairwoman Amy Phalon opened the sketch plan version of a public hearing for the sole audience member, Eliot Marnell of 41 Clay Hill Road. He said that as the area opens up to more houses, there is increased traffic. Clay Hill Road has not been striped and there are no speed limit signs. Will the new subdivision increase the possibility of Public Works taking an interest in placing signage and street lighting in the area? Mr. Marnell calls it "a free-for-all up there."

After minimal discussion, the board encouraged the applicant to proceed as planned.

## **Minutes**

Motion: Pete Smith moved to accept the minutes of July 13, 2017 as corrected. Al Cotton seconded. The motion passed 5-0.

Motion: Al Cotton moved to accept the minutes July 27, 2017 as corrected. Pete Smith seconded. The motion passed 5-0.

## **Other Business**

Al Cotton reported on the subcommittee at which he and Wayne Boardman are developing material for the Green Enterprise Recreation District / Beach Parkway. Meetings will be held on the 2<sup>nd</sup> and 4<sup>th</sup> Wednesdays at 11:00 in the Library. Al would like to get a representative from the Select Board; Bike Ped Committee (specifically Dave McCarthy); Chamber of Commerce; Conservation Commission; a York Beach business; the DPW; and Public Safety.

Mylars for York Housing Authority were signed.

## **Adjourn**

9:58