

York Planning Board
Thursday, October 9, 2014, 7:00 P.M.
York Public Library

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

Chairman Al Cotton called the meeting to order at 7:03. A quorum was determined with five people voting: Chairman Al Cotton; Vice Chairman Peter Smith; Board Secretary Todd Frederick; Lew Stowe; and alternate Amy Phalon, who was asked to vote as a full member. Town Planner Dylan Smith represented staff. Patience Horton took minutes.

Public Forum

Patrick Rocheleau, President of Ledges Golf Club, received approval in 1995 for the 287-acre Ledges Golf Club. In 1997, he bought 22 acres in South Berwick that abuts the far side of the course off Dennett Road. Ten years later, in 2007, he was approved by the State of Maine for a quarry there. He has also been approved by the Town of South Berwick for the quarry. His request for Planning Board approval to subdivide the 30 acres would be the next most likely step. If that is not possible, he will alter the previously approved plan and go that route.

Town Planner Dylan Smith explained, per Article 18, changes to a previously approved site plan must come back to the Board. The Board recommended that Mr. Rocheleau come back with a plan to subdivide.

Minutes

The August 28, 2014 Minutes were reviewed and corrections were requested.

- **Motion:** Todd Frederick moved to adopt the August 28, 2014, Minutes as amended this evening. Seconded by Amy Phalon, the motion passed unanimously.

The September 25, 2014 Minutes were reviewed and corrections were requested.

- **Motion:** Todd Frederick moved to adopt the September 25, 2014, Minutes as amended this evening. Seconded by Amy Phalon, the motion passed unanimously.

Field Changes

There were no field changes.

Peradventure. Peradventure Way Map 0052, Lots 21, 21C, and 21D; Amendment of a previously approved subdivision to combine 2 lots into one larger lot with a portion of the land going to another lot

Town Planner Dylan Smith: From taking the site walk, it appears from afar that the wall on the western edge of Lot 53-21 may cross the pedestrian right-of-way. The path does not appear to be impeded by the wall on earlier approvals. If the stonewall currently crosses or blocks the path, it should be shown on the plan with the note “to be removed.”

Dylan Smith continues: I’ve had discussions with the applicant’s attorney, the Friends of the Cliff Path, and the Town Attorney. Hopefully, we will come to a conditionally approved plan per the last comment of my memo. Note 7, which reads, “The foot path along the Atlantic Ocean shown on previous plans that was not visible as of the date of this survey, due to overgrown vegetation and/or erosion,” has been eliminated.

Motion: Peter Smith moved to accept the application as complete. The motion was seconded by Todd Frederick and passed unanimously.

Bill Anderson, Peradventure Applicant Engineer: We are combining three lots into two on a subdivision previously approved in the 1990s. The lot line change will eliminate the turnaround. All frontage areas will be in conformance with current zoning.

Public Hearing

Ted Little of the Cliff Walk Steering Committee: We ask that the Friends’ letters of July 22, August 8, and October 6, including all attachments, become part of the public record.

He commented. The applicant has deleted the vegetation line. They have removed Note 7. The Code Enforcement Office is suggesting that the owners do not block the Cliff Walk. In the event it must be proven that the use of the Cliff Walk is a public right of way, the Friends feel the Planning Board must recognize the importance of the 1986 site plan as proof that the Cliff Walk is an entity that does exist.

Duane Jellison, Three Peradventure Way: The scenic view easement that is recorded in Alfred is not being changed. This must be referenced on the approved plan. The lines of the easement are described in the deed. In that restricted area, no one can build or have anything more than four feet high. The Town can enforce it, if there is an issue.

Peradventure Way has a five-foot right-of-way that only Peradventure residents can use as a footpath to the ocean. It is not a public way.

The location of the driveway that accesses the new lot is not on the plan. The plan is incomplete without that information.

Mike Metcalf, Two Peradventure Way: The view easement is not listed on the plan. Where is the access to the new lot? Previously, it was serviced by a cul-de-sac. We request that the new driveway goes in the same place as the current right-of-way. The Planning Board can’t talk about changing the lot line without having that driveway on the plan. I hope the Planning Board considers leaving the cul-de-sac right where it is.

The Protective Covenants state that no bushes on the properties can be more than 30 inches high, and that the owner of Lot 1, Mr. Rubin, has to maintain the cost of maintaining those bushes. In 12 years since I have owned my property, some bushes have been cut, but tree trimming has only been done recently. Mr. Metcalf then showed before-and-after pictures of trimmed shrubs and trees. Continuing. Despite the requirements, Mr. Rubins did not do the work timely or correctly. Now potentially there is another property owner involved, and I do not have any teeth about how his trees can be trimmed back.

The right-of-way is labeled as a pedestrian right of way on the new plan. It should read a "deeded right-of-way," not public. He requested Bill Anderson to change the notation.

Board Comment, Todd Frederick: If we could have gone through Checklist 5.6, we would have caught the outstanding issues we are now learning about from the abutters.

Dylan Smith: I don't think there is anything major that can't be ironed out. Wait until the final plan comes in showing the changes that the applicant agrees upon. This is a minor subdivision with less than four lots. Preliminary and Final can be heard together.

Charles Stedman: The Cliff Path was called the Marginal Way several times during this meeting. In public hearing, Mr. Stedman said that in the 1980s his father, who was walking the Cliff Path 100 years ago, wrote a letter to the York Weekly because people were calling the Cliff Path the Marginal Way. His letter said, "Let Ogunquit have their Marginal Way. We have our Cliff Path."

Referring to the status of the lot line application, Chairman Al Cotton said that the board is not to take any action at this point. We ask the applicant to bring the application back to us with all the discussion points that we've had incorporated into it.

Four Maine Street Parking Lot Expansion. Four Maine Street. Map & Lot 0023-0008. The proposal is to expand the existing parking lot to the existing non-conforming setback limit of five feet along the southern and southwestern boundary of the parcel.

Town Planner Dylan Smith: This York Beach parking lot is in a 100% lot coverage zone.

Joann Fryer with CLD Engineers represented the applicant. The last plan incorporating changes associated with the drainage project and updating the site layout was approved by the Board in 2012. The Atlantic House dumpster was added to the site plan at that time. The Atlantic House is not part of this application.

The Town received a permit from Maine DEP in 2010 to construct the new box culvert through the parking lot and down Beach Street. It outlets at Short Sands. The brook that used to travel down one side of the parking lot was routed through the culvert in 2011. It was replanted with native vegetation.

The applicant would like to expand the parking area to provide additional parking to support the redevelopment of the Kearsarge House. They need to know how many parking spaces are available to them, so they can plan the development. The proposed expansion is from 41 to 52 spaces. Nine spaces are dedicated and leased to the Atlantic House. The remaining parking spaces support the Kearsarge House.

They are expanding to the existing non-conforming setback limit of 5 feet along the southern and southwestern boundary, in accordance with zoning §17.3.4.3. They propose to upgrade some existing culverts that are upstream, on the York Wild Kingdom property. They propose to replace culverts that don't meet the DEP standards for stream crossing. They will take them out and replace them with culverts that will meet those requirements and upgrade the water quality itself.

The size of the snow storage area will be calculated. Snow will be placed in a number of spaces. If that snow pile is exceeded, the snow could be removed to another location. The parking configuration will be such that the travel isle is 22 feet, suitable for 2-way traffic. The dirt spaces could be painted often, or curbs stops or landscaping timbers can define the island. Retaining walls less than four foot tall are allowed in the setback. They are proposing a retaining wall of four-foot height. A pathway could make it around the retaining wall to the pipe at the Purple Palace, in the event a stream overflow is predicted.

Chief Bracey has recommended having a 3rd party engineer to help understand the impacts and provide an analysis for the parties to agree upon.

Motion: Peter Smith made the motion to accept this application. Amy Phalon seconded, and the motion passed, 5-0.

Public Hearing

Francis Lattiziri and his wife own the Purple Palace, under which the stream channel travels. This parking lot is five feet higher than this land. He wants to make sure the drainage that is put in with the new parking lot is adequate to divert any water coming onto his property. JoAnn Fryer responded that by increasing the height of the wall, it's possible to hold back the water from going to that property. There is parking over the culvert now. The stream protection zone ends when the water hits the headwall and goes underground, into the culvert. The stream begins again when it comes out of the other side. When the Town installed the culvert down the middle of Beach Street, the culvert was designed for traffic.

JoAnn Fryer: The current parking scheme has parking along the edges, and that will stay the same. The new two-way travel lane there will be 22 feet, 2 feet narrower than the standard. Todd Frederick insisted that peer review should show how standard-sized cars maneuver in this situation. He also asked to see calculations for snow removal.

The Board instructed the applicant engineer to meet with the Town Engineer and/or Chief Bracey so the application can continue.

Kearsarge House—Sketch Plan. Six Railroad Avenue; Map & Lot 0024-0015 The proposal is to review a sketch plan for the potential redevelopment of the Kearsarge House into a mixed-use property.

JoAnn Fryer for CLD Consulting Engineers. The Kearsarge House was purchased by Kearsarge Acquisition Company in 2012. Parking is the key issue, because it determines the number of residential units. She asked that the Board remembers that at the applicant's May 12, 2012, meeting with the Planning Board, the Board recommended reduction of the required number of parking spaces associated with Kearsarge House from 1.5 spaces per hotel unit, to one parking space per unit. As well, two spaces would be reserved for employees.

This proposal is for a mixed-use property with retail, restaurant, and housing. The housing will be called the York Beach Residents' Club, with 39 individual units planned, subject to the parking allotment.

York resident Terry Elsemore is advising the applicant regarding ownership and fractional-interest condominium development. Residents' Club members would have a one-sixth share fractional interest, being a condominium under the time-share act. Units are individually deeded for 1/6 shares.

JoAnn Fryer: A structural engineer did an evaluation. Given the condition, it was determined it was economically unfeasible to rehabilitate the building. The proposal is to demolish and rebuild with newer, stronger materials, as well as create a design appropriate for plumbing, mechanical, and electrical systems. Parking for the existing 1st floor business is grandfathered for parking purposes. Parking was never assigned to those businesses.

A designated loading zone is needed for guests to unload. The current building does not have space for that. The process for creating a loading zone would include a follow-up with Chief Bracey and coordination of meetings with the Town Manager, the Chief of Police, and ultimately with the Board of Selectmen.

The density requirement requires no more than eight units in a mixed-use development, but the definition of "unit" excludes buildings used for transient rental accommodations. Construction would be during the off-season, with interior construction during the summer season.

She continues: In all the flood events we've had, the water never reached the elevation of the building. But, elevation will be considered as the design moves forward. The building is on a Maine DEP designated Sand Dune. A permit will be necessary.

Dylan Smith: The Board should consider having a third-party review architect provide some comments on the design. It is not certain if the Town allows time-shares right now. This is a good opportunity to work with York Beach Standards.

Public Comment

Agnes Biagioni has a shop at 14 Railroad Avenue. How long will the project take to complete? Where are the workers going to park their equipment? The building hasn't been used for quite a few years. Won't this take a toll on the sewer system? JoAnn's answers: The building shell and first floor should be done during the first winter. The interiors will be finished up during the summer. The location for parking the equipment hasn't been determined. We already have a letter of acceptance from the Sewer District that says they have the capacity to accept the sewage from this building.

At Amy Phalon's request, JoAnn Fryer talked about the judgment of historical value. We have already made a very detailed structural investigation of the existing building. It does not meet code requirements, and the spaces between the floors do not have space for new utilities. As part of the process, we are required to get a Demolition Delay permit from the Historic District Commission.

Loading zones: There is no place for loading and unloading on the two streets fronting the building. People will need to pull up right there in front. We would want to make changes to provide an active loading zone with a 15-minute limit to serve this building and all the buildings in the Beach area.

JoAnn continues: There is no use-definition of fractional ownership in the ordinance. What use-definition could be interpreted from the ordinance or incorporated with a new type of use? We'll coordinate with Dylan Smith to discuss how a new use category can move forward.

There is a difference in the definition of lodging, inns, and B&Bs as opposed to Hotel/Motel. Buildings that have room for more than 15 transient residents, as this does, fit into the hotel/motel classification.

Public Comment. **John Biagioni** is husband to Agnes, who testified above. We have six to eight employees, and the problem is with parking. How many employees will the retail businesses and the hotel have? If it's 30 people, how will they find their own place to park? The rear of my building on Bay Street can have deliveries. Trucks have a hard time getting down the street. Where are you planning to put the delivery area?

Public Comment. **Dan Schumacher**, Seven Railroad Avenue, across from this location. During fire truck events, traffic reverses on Railroad Avenue. That should be put into consideration. During winter months, there are no businesses open and no sidewalks are plowed. There is increased liability that doesn't occur today.

York Colonial Center Sketch Plan Four U.S. Route One. Map & Lot 0086-0001.
The proposal is to review a sketch plan for a potential revision to architectural elevations and associated site alterations.

Town Planner Dylan Smith: This project received final approval in June, 2014. This sketch plan is a revision to the main building going from one building to four.

Applicant-Architect Christopher Badeau presented a modified plan that was changed to attract office people who need a minimal amount of office space. One building is being split up into four. The status of Workforce and York Housing Authority housing stays the same. The mass of the original project is being reduced. Drainage and structures of the site work are not changed. The parking remains the same. There are more green areas. The impervious is lower because of the increased grassy areas.

Public Comment. **Victoria Lee** and her husband live at and manage the Cain Crest Mobile Home Park across the street. Many buildings in the area have been vacant for a long time. The traffic is brutal there on Route One. She will visit Town Hall to see the traffic report.

Christopher Badeau discussed added costs. Elimination of sprinklers and elevators will bring less expense. The focus is on the commercial space. A built-out space won't be rented out to someone, like a doctor or lawyer, who wants a one-half or one-third space. This way, by creating more entrances and windows, more offices are created.

The site will be stabilized for erosion control. There might be changes in site work and drainage, and landscaping, and those things are hopefully in place before the change in the season. Lew Stowe and Todd Frederick agreed this is a new plan. Christopher Bandeau intends to have engineer-drawn revisions to every drawing. Dylan Smith told Mr. Bandeau there must be verification on the plan that the impacts are the same.

Other Business

Todd Frederick will represent the Planning Board on the Capital Planning Commission.

One York Street Findings

Motion: Lew Stowe moved that the Chairman sign the Findings of Fact for One York Street. Peter Smith seconded. The motion passed 5-0.

During his review, the Town Planner discovered the Board overlooked the engineering stamp in the One York Street application. In discussion, Al Cotton and Todd Frederick agreed nothing would be pursued to remedy this.

Lisa Martel Findings of Facts

Lew Stowe requested an alteration to the Findings of Fact. Because we made a point of saying "no" to the reduction of the footprint, the Findings must indicate that the Board will not allow a reduced footprint.

Adjourn

10:40