

York Planning Board
Thursday, February 8, 2007, 7:00 PM
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Glen MacWilliams began the meeting at 7:00 by introducing the Planning Board and staff. There was a quorum. Glen MacWilliams, Vice Chairman Tom Manzi, and Barrie Munro were present. Glenn Farrell was absent. Alternate Lee Corbin was absent for the first two hours. She arrived at the beginning of the Highland Farm hearing and was asked to vote in place of Glenn Farrell. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting was televised.

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

Review and approve draft minutes.

Glen MacWilliams and Barrie Munro pointed out corrections for the **January 11, 2007** minutes. Steve Burns said he recorded the errors and would fix the draft minutes.

Motion Barrie Munro moved to accept the January 11 minutes as amended. Tom Manzi seconded the motion, which passed, 3-0.

The **January 25, 2007** minutes were reviewed.

Motion Barrie Munro moved to accept the January 25 minutes, as written. Tom Manzi seconded the motion, which passed, 3-0.

Application Reviews and Public Hearings

- **Union Bluff Function Hall Parking Lot Amendments** 416 Ridge Road. Map & Lot: 0094-0084-A. Amendments to parking lot design.

JoAnn Fryer of CLD Engineers gave an overview of changes for the parking lot. The zoning is RES-7, where parking lots are an allowable use. A traffic safety study that was conducted in conjunction with the Atlantic House application concluded that traffic would not make a discernable change to the average York Beach visitor or resident. Traffic noise is excluded from the town noise ordinance. A light pole is proposed for the center of the parking lot. The light from it will not extend beyond the parking lot boundaries. Proposed landscaping along the front of the lot can help screen parking lot light and noise for the nearby residences. The sidewalk will be extended from the post office. She used a photo/map to illustrate the location of the lot and its abutters.

The chairman opened the **public hearing**.

Scott Ireland of 409 Ridge Road showed the location of his home on the photo. He said it was a very close 688 feet from the parking lot. He is concerned about security and suggested implementing cameras. He said that the speed limit sign (25 MPH) should be moved to the corner for safety reasons. He is also concerned about the headlights shining into his neighbor Rob Byre's house, as well as his own. A six-foot fence will not stop the lights well enough, he said. He suggested planting Spruce instead of Arborvitae as a screen, because it grows faster. Scott Ireland also said that he is concerned about his property value, because the parking lot will cause the value of his house to diminish.

Rob Byers of 411 Ridge Road said that the parking should be located in the vicinity of the restaurant it is serving. Putting it in the suburb is an eyesore that will affect his property value.

Charles Stacey said that the field that became the parking lot had been for sale for a long time, and the abutters could have bought the field. The owner of the field pays taxes and has the right to put in the parking lot.

Larry Ireland said that he was never aware the field was for sale. Scott Ireland said he wanted to know if applicant Brett Merritt had purchased the field. Brett Merritt answered that his father-in-law had bought it quite a while ago.

Chairman Glen MacWilliams closed the public hearing.

The board then reviewed the substantive issues. Mitigation of car lights and noise could possibly be achieved by moving the driveway. JoAnn Fryer agreed it was possible to move the easement to accommodate a switch in the driveway location. Barrie Munro said that screening could be achieved with an attractive 6-foot architectural fence, however, security might become a more serious issue, if a person cannot see into the parking lot because of the screening. Use of an operable gate that clients could use was proposed. Brett Merritt said that aside from function parking, the lot would also be used for employee parking. In addition he has been approached to offer the lot for parking during nearby ball games. Brett Merritt indicated that, given the problem of providing

restaurant and event patrons with a means of operating a gate, this kind of security measure wasn't feasible. He did agree to keep the parking lot chained after business hours. This, however, does not satisfy the desire of the neighbors that the use of the lot be restricted to Union Bluff and function hall customers only.

Glen MacWilliams said he was concerned about property values. He suggested that the abutters talk to the Town Appraiser to find out what would happen to their property values. He also asked JoAnn Fryer to speak to John Horne about the easement unencumbered by the sidewalk. The planning board would expect a letter from John Horne saying that he agrees to the sidewalk, and the chairman asked JoAnn Fryer to get such an agreement. The board also discussed approval for signage for the speed limit and the shuttle bus.

JoAnn Fryer said that relocating the driveway and rearranging parking spaces will work. There was discussion of whether or not relocating parking spaces into the easement in order to move the entrance was a possible problem. It was noted that the owner of the easement had agreed to continue using the existing driveway that, in fact, is not in the easement. It was agreed therefore that having parking spaces within the formal easement should not be a problem since they would not impede the owner's ability to pass and re-pass to his property, located behind the parking lot. Barrie Munro said that, if the owner wants the easement at a later time, the driveway and parking could easily be rearranged. Steve Burns said that if the driveway is in the easement, the planning board has the ability to reduce the 43 spaces to 41, if necessary.

The applicant agreed to return with a plan showing the revisions discussed and with a security plan.

- **Ocean View Village Parking Lot Expansion 1 & 2 Rosewood Lane** Map & Lot: 0020-0008-T. Application to amend the parking lot design.

JoAnn Fryer of CLD Engineering described Ocean View Village (OVV) as a condominium project built in the 1980s for seasonal owners who would come to York for weekends and vacations, and usually only in one car. Today's owners live there year round, and there is not enough space for their two cars. The proposal is to add about 8 feet of parking space, which will make room for more cars, increasing the impervious area by less than 1%, while keeping the imperviousness of the property under 30%. There are a few waivers being requested. The Chairman opened the **public hearing**.

Abutter **Nancy Brooks** said she was afraid the increase might cause more water to drain onto her property and her neighbors', as well. When OVV was built, they did not put in the drains, she said, and the backed-up water goes into her son's cellar. Also, the lights from the cars are causing problems shining into the children's rooms. The children are having sleeping problems and the dogs keep barking from the lights. Steve Burns added that many calls came in from different abutters.

Glen MacWilliams closed the public hearing. He said that from looking at the plan, it was clear that the building that was approved in the 1980s was not what was built. He asked for a survey of Ocean View Village as part of the applicant's submittal.

JoAnn Fryer read a letter dated February 7, 2007, from the applicant, Ocean View Village Owner's Association property manager Mike Luebbert. His letter gave the history of events leading to the creation of the as-built survey that was made in 2004. He also addressed accusations of "harassment" and said that no one at OVV is interested in any harassment against the Norwood Avenue neighbors. He added that he has never been approached about any parking headlight issue.

The board discussed the drainage plan, including a berm that would raise the slope's grade. The work that is proposed does not go into the setback or into the 16-foot right-of-way.

Steve Burns read a February 2, 2007 letter from Harold Brooks stating that there were no wet basements until Ocean View Village was built, and now one house has a severe water problem and a second home has a wet basement all the time. This parking lot will make things worse, the letter continued. Over the last three years, people have started parking with their cars facing the houses on Park Street, which particularly disturbs a couple of adopted children who have had difficult personal histories. Consequently, because of the lights, one of the children is afraid to be alone in his room. "This is a form of harassment that does not seem to stop." The letter concluded that the Ocean View Village should put up a stockade fence.

Glen MacWilliams referred to the proposed design, and he suggested changing the contours to slope drainage away from the direction of those residences. JoAnn Fryer said that there will be a change in the slope so the additional impervious area would direct water back away into the OVV development. She said she would discuss the possibility of placing retaining walls that will not affect the abutter's right-of way, changing the incremental water direction, and changing the lights. Barrie Munro said that it is time to make sure the drainage from the roofs of Apartments 1A, 1B, 2A and 2B is directed toward Rosewood Lane and not Norwood Avenue. Tom Manzi suggested that JoAnn Fryer present an alternate design for the parking lot. JoAnn Fryer said that she has looked at six alternatives, and this one is the best.

The Board did not take any action directing the applicant to reconsider the plan submitted, making sure that there was no intrusion into the easement that runs along the backs of the properties along Norwood Avenue, that provision was made to direct the drainage away from those properties, and that provision was made to keep automobile headlights from shining into the windows of the houses located along Norwood Avenue.

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

Project Engineer Steve Haight said that the applicant had conferred with the Kittery Water District and the land trusts and must generate information based on environmental research, which cannot be gathered in winter.

Motion Barrie Munro moved to extend the hearing until the March 8, 2007, Planning Board meeting. Lee Corbin seconded the motion, which passed, 4-0.

- **Brixham Grange Change of Use 435 Cider Hill Road. Map & Lot: 0089-0038. Request to change the use within this historic building.**

Allen Lifvergren said he had bought the Grange in 1995. For the first five years, the building was used as a store. After that, until 2006, it was a school. Now he wished to return to its use as a store. In the deed, approval for use changes must come from the Historic District Commission, which had already approved this proposed change “without hesitation,” and from the Planning Board. He had met with Code Enforcement, and there were no issues. The useful space is less than 2500 square feet. There are 18 approved parking spaces. The signage has already been approved. He had originally agreed to keep adequate fire insurance on the building, and he has. Steve Burns explained that Allen Lifvergren had purchased the building for \$1 with the stipulation that he would restore it.

Motion Lee Corbin moved to approve the requested change of use conditional to the continuation of certification of insurance plus receipt of a letter from the Historic District Commission approving the change of use.

As a **friendly amendment**, Barrie Munro added inclusion of a reaffirmation limiting the retail space to 2500 square feet. Lee Corbin agreed to the friendly amendment. Barrie Munro seconded the motion, which passed, 4-0.

- **PHN Amendment 2 Tree Tops Lane, 9 Tree Tops Lane, 5 Bernard Karfiol Way, and 58 Pine Hill North.** Map & Lots 0001-0002, 0001-0002-A, 0001-0008 & 0001-0011. Minor boundary line adjustments with neighbors.

Robert Satter asked for boundary line adjustments so his two neighbors can make improvements to their properties. The Hazeltons, he said, currently cannot increase the size of their kitchen because they cannot meet the setback. The boundary line adjustment will allow his other neighbor to make improvements to their barn. The adjustment will not change the gross or net areas of those two properties.

The Chair opened and closed the **public hearing**. No one came forward to speak.

Board discussion determined that the change is very small. Glen MacWilliams said that the substantive issues have been met, and the plan sheet needs to be revised.

Motion Lee Corbin moved to approve conceptual approval of the plan. Barrie Munro seconded the motion, which passed, 4-0.

- **Ledgewood Park (Formerly J&B LLC) 764 U.S. Route One.** Map & Lot: 0094-0016-V. Application for a Route One Use Permit.

Walter Woods introduced his partners in this project, Jim McGarvey and Bob Cushing. He identified the lot's location as directly across from Wild Willy's on Route 1. The plan shows the cut and fill areas which will be achieved by blasting and removing the ledge, crushing the stone off site, and bringing the crushed stone back to use as the base of the parking lot. Elevations will not change more than five feet, he said. He talked about the slope being decreased to 20%. He pointed out the retention pond and described the landscaping. Walter Woods asked to have the traffic study and the high intensity soil survey waived. He said that Bill Bray had agreed with him that there would not be enough trips per day to require a traffic study. He also said that Town Engineer Steve Bradstreet had emailed a drainage survey to Steve Burns, which Steve Burns did not have yet. The culvert material should be changed to CVP. Cost estimates had been presented in the packet, and a letter of credit is forth coming.

Steve Burns told Walter Woods that he wants him to draft the Findings of Fact, himself. Walter Woods said that the deed will be changed to include Walter's ownership, when the planning board approval goes through. Glen MacWilliams asked that each page of the landscape drawings identify Ledgewood in the legend. He asked for certification of erosion control. The term "excavation plan" should be changed to "grading plan."

Motion Barrie Munro moved to waive Article 6.2.33, the requirement for a traffic analysis. Lee Corbin seconded the motion, which passed, 4-0.

Motion Barrie Munro moved to waive Article 6.2.32, the requirement for a high intensity soil survey. Tom Manzi seconded the motion, which passed, 4-0.

Comments were made that Walter Woods had given a very complete presentation.

The materials for the building exterior will be a vinyl product, including vinyl clapboard. Walter Woods said he would bring the materials in for the board to view. Barrie Munro said that the joints in the siding should not be visible. Walter Woods said that some might be visible below the windows. The deed for the property says that neither the lighting nor the signage can face the property behind the building. Glen MacWilliams indicated that a few changes should be made before approval. There was no Mylar to sign at the time, and approval was not given at that time.

Walter Woods described the propane heat with underground tanks, and forced hot air heat. There will be nine units. They will be wet sprinkled with water in the system all the time. Town water will be underground. He described boring under the road to bring the water pipe to the building, which Lee Corbin responded can have risks.

Motion Barrie Munro moved to accept the plan as complete for purposes of review. Tom Manzi seconded the motion, which passed, 4 –0.

The **public hearing** was opened and closed. No one came forward to speak.

- **Scudiere Noon-Conforming Lot 4 Thistleberry Lane.** Map & Lot: 0046-0053-G. Application to re-establish a formerly consolidated non-conforming lot.

Applicant, Paul Scudiere, said that he wished to reserve his comments until later in the hearing. Steve Burns said that he was not sure of the history of the property. There is a policy allowing non-conforming lots to be split back out when two adjacent non-conforming lots are under single ownership. Variances are not needed for the lots to be redeveloped.

Steve Burns had heard from many abutters about this application this week. Some neighbors said that a power line right-of-way goes across one lot. There is a question about whether the town or the applicant combined the lot, but it looks as if the lots meet the criteria for separation. Applicant Paul Scudiere said that the two lots were designed as two separate lots. Glen MacWilliams said that this kind of work should have a survey that shows everything on the site, and he asked Paul Scudiere to bring in a survey.

The chairman opened the **public hearing**.

Abutter **Jennifer Lynch** said that she and her husband, Steven Wagner, were unclear about the process that was going on. She had understood the lot behind her property was nonconforming and could not be built on. The prior owner, named Keenan, took the issue to the Appeals Board and they ruled against Keenan. After that, the lot was conjoined with another lot. She wanted to know why it was before the Planning Board. Steve Burns replied that the ordinance was amended so some lots could be re-divided. The lot can be broken back out as a building lot. Glen MacWilliams commented that the lot still may not be build-able. Barrie Munro explained that the change was made because the contiguous lot law was considered to be unfair in some circumstances.

Allen Scudiere said he was happy the rules were changed. Lot 5 was never un-buildable. It had been used as a leach field for his current house. He said he hopes to add a building to Lot 5 and put in a new septic system for his own home.

After discussion it was the Board's opinion that Lots 4 and 5 could be separated. This, in effect, would not constitute a further subdivision that is prohibited in a deed restriction, but it is simply a return to the original subdivision plan wherein Lots 4 and 5 were separate lots.

Other Business/Adjourn

Steve Burns handed out information from State Representative Dawn Hill about implementation of the Comp Plan.

He also handed out information about an act requiring replacement of trees in the Shoreland zone.

He had brought the Mylar on the boundary line on Whippoorwill, and the board members signed it.

The meeting adjourned at 10:55.