

**TOWN OF YORK PLANNING BOARD**  
**THURSDAY, JUNE 9, 2005, 7:00 PM**  
**YORK PUBLIC LIBRARY**

Chairman Barrie Munro began the meeting at 7:10. Barrie Munro, Glenn Farrell, Glen MacWilliams, and alternates Lee Corbin and Michelle Moody were present. Tom Manzi and Richard Smith were absent. Barrie Munro asked Lee Corbin to vote in place of Richard Smith, and he asked Michelle Moody to vote in place of Tom Manzi. Town Planner Steve Burns represented staff. Patience Horton took minutes. The chairman introduced the members of the board and the staff. As a procedural guideline, he said that he hoped the meeting would be finished by 10:30. Nine motions were made.

**Public Input**

**Open to the public to address any issue other than issues scheduled for public hearings on this agenda.**

No one came forward to speak.

**Minutes**

**Review and approval of draft minutes.**

The May 26, 2005 Minutes were reviewed. Glen MacWilliams asked for a change in the Cape Neddick Village Minutes. The Board had previously decided that the location of the air conditioning units would be reflected in the Findings or Fact, and not on the Mylar, as the Minutes had said.

**Motion** Glen MacWilliams moved to approve the May 26, 2005, Minutes as amended. Glenn Farrell seconded the motion, which passed, 5-0.

**Applications**

**Pink House Condominiums. 101 Cider Hill Road. Map 112/Lot 51.** Public Hearing. Site Plan application for condominium conversion of existing duplex and barn.

Chairman Barrie Munro opened and closed the **Public Hearing**. No one came forward to speak. Town Planner Steve Burns said that there were no current issues, as the applicant made all the changes that had been requested.

**Motion** Glenn Farrell moved to approve the Plan and the Findings of Fact. Lee Corbin seconded the motion.

In discussion, Barrie Munro asked Glenn MacWilliams if he was satisfied with the dimensions on the plan. Glenn MacWilliams answered that he was. Applicant Gail DePerio described the accesses to the different units, the easement, and the shed.

**Vote** The Chairman called the vote. The motion passed, 5-0.

The Mylars were then signed.

**York Village Business Center, 14 Cider Hill Road (Route 91).** Map 53/Lot 9. Public Hearing. Application for Preliminary Review of a Route One Use Permit and condominium conversion for a mixed-use commercial development.

Barrie Munro opened the **Public Hearing**. Abutter Scott Franklin said that his concerns were the same as at last meeting. He wished to have a wooden fence between his house and the hotel, but one is not on the plan. He commented that the proposed landscaping plan had been improved, but the trees to be planted between his home and the hotel are small, and there is not much screening from the 2- or 3-story hotel. He requested that a 30-year-old tree his father had planted be preserved. It is just over the line on the Business Center property where more trees are apparently planned.

The Chairman closed the Public Hearing. Planner Steve Burns said that application is complete, and he recommended the Board accept it. He said that the Site Plan standards and the Route 1 Use Permit standards do not necessarily match up.

**Motion** Glen MacWilliams moved to accept the submitted plan as complete for purposes of review. Glenn Farrell seconded the motion, which passed 5-0.

Referring to his Memo To Planning Board of June 3, 2005, Steve Burns listed off the Preliminary Stage Issues, including Drainage, Traffic, Visual Impact, Setbacks and Buffer yards, Impact Mitigation, Traffic Circulation, Pedestrian Safety, Wetlands, and Shared Parking. He referred to a letter from Steve Bradstreet, the Town Engineer, stating that the drainage plan is not complete and that there is a problem about where the water will drain. Traffic, Police, and Maine DOT will present an update at a later time. The Board should have an idea of how the buildings will look, and doesn't at this time. Steve Burns also explained that he felt the front of the property should face Route 91 because of the restrictive requirements. He described the setbacks under the condition of the property facing Route 1. There was a discussion about what is the front and what is the back and sides, with Glenn Farrell particularly in disagreement with the Route 91 frontage concept.

Applicant Engineer Jim Hanley of Engineering Alliance, Saugus, Mass., said that Route 1 was the intended frontage, everything along 95 being the rear, and the other property lines being the sides. That was how he had applied the regulations to the plan. He said that Cider Hill Road would not be the main entrance. Steve Burns said that it would be more conforming if the Route 91 side is selected, because of the regulations concerning parking in front of the buildings. Lee Corbin offered a solution that 10 parking spaces could be moved from the front of the retail/office building. There is parking space left over from the hotel's being 80 rooms, not 100, as well, she said.

**Motion** Glenn Farrell moved that Route 1 be considered the frontage in this application. Michelle Moody seconded the motion.

In discussion, Jim Hanley said that he understood that 80% of the parking could be at the side or the rear of the property, and that less than 20% would be in front. Steve Burns answered that 10 spaces in front would be the maximum.

**Vote** The chairman called the vote. The motion passed, 5-0.

The exact definition of the sides and back were discussed. On the plan, Glenn Farrell showed the back of the property facing Route 95. The sides were everything else but the front and back.

**Motion** Glenn Farrell made the motion that the side facing Route 95 would be the back, and the rest (that is not the front) would be the sides. Michelle Moody seconded the motion.

In discussion Glen MacWilliams suggested that there are, in fact, two fronts to property, and that it could be considered a 2-frontage lot.

**Vote** The motion defining the sides and the back passed 4-1, with Glen MacWilliams opposed.

Jim Hanley again asked for clarification about the 20% parking in the front, and again Town Planner Steve Burns said that ten spaces were the limit. Jim Hanley explained his understanding that he could have ten spaces per building. With two buildings, he was creating 19 spaces toward the front. Glen MacWilliams said that there are ambiguities in the ordinance. The fewer spaces are intended to make the visual impact better from the front. Lee Corbin said that the shared parking being proposed meets the definition of ten-plus-ten for the two buildings. She also suggested employing heavy landscaping to hide the 19-space lot. Glenn MacWilliams also pointed out that the parking lot near the residence has to be well hidden, and perhaps the building might have to be made smaller to accommodate it. This comment led to a discussion of a parking-lot-as-a-structure.

Jim Hanley said that his application encompassed older, pre-November 2004, rules. In November, due to a public vote, there had been a significant change in the interpretation of structure, a change that he said impacts this application significantly. Steve Burns said that the application is under the current definition because the application was accepted as complete this evening, minutes ago. Glenn Farrell added that the York Planning Board has a history of considering parking lots as structures.

The discussion went to the subject of drainage. Jim Hanley made a brief presentation about drainage. He described how Maine DOT had proposed improvements involving an outlet pipe that will drain into a pond on the south side of the property that will connect to another pond farther downstream on the system. He also pointed out where snow will be stored, in the section of the property near the Chinese restaurant.

Jim Hanley said that the traffic engineering work was 95% complete. Glen MacWilliams asked about the landscape design and was shown a plan with Terrance Parker's stamp on it. There had been question about the existence of the stamp. Barrie Munro said that the setbacks and buffer yards will have to satisfy the board's consensus, and that parking remains an issue. Traffic and pedestrian circulation were briefly discussed. Michelle Moody said that sidewalks have to be consistent with what is already planned or already in place in the area. Barrie Munro said that sidewalks between parking lots would be good to see. Glenn Farrell said that he hopes the lighting will be something other than standard lighting. Steve Burns said that the applicant has to produce an analysis of the shared parking. Barrie Munro said that the application has to be moved ahead within 30 days, unless there is an agreement for a longer time. The parking-lot-as-a-structure issue came up again with the idea of perhaps voting on it, but Glenn Farrell was insistent that it couldn't be changed. Chairman Barrie Munro said that he did not want it to come up again. He also said that abutter Scott Franklin had mentioned fences during the Public Hearing. Steve Burns said that it was a final, not preliminary, issue.

Al Goodrich of the nearby Mic Mac Motel then described the area's drainage to the Board. The field on his motel property ties into the drainage scheme. At one time, the culverts and swale systems allowed water to flow west to the York River, but the main culvert is now filled in. No one maintains the drainage swales. There are shopping carts and rubbish in there, he said. It is too costly for the Town to maintain. Someone should make DOT come up with a plan, he said.

**Walter Woods/Spring Pond Default, Styles Lane and Spring Pond Circle.** Map 32/Lot 3A. Public Hearing. Planning Board to consider removal of their finding of default

Chairman Barrie Munro said that a public hearing was not necessary. Town Planner Steve Burns said that he had received a recommendation from the Tow Attorney to lift the default that had been put in place about eight months ago against Walter Woods. The related issues, like the Spring Pond Homeowners' Association complaints, were settled, and everyone was in agreement. Glenn Farrell said that if a public hearing had been posted, the Board should open one. He would move to open it. Lee Corbin said that she would second the motion.

Chairman Barrie Munro opened and closed the **Public Hearing**. No one came forward to speak.

**Motion** Glenn Farrell moved to rescind the default ruling on the Walter Woods Spring Pond application based on the letter of recommendation from the Town Attorney. Lee Corbin Seconded the motion.

In discussion, Glen MacWilliams said that in reading Attorney Parkinson's letter, he saw that the Town and Graystone Builders were in agreement, but he did not see anything from the homeowners. Steve Burns said that the homeowners are satisfied because Wal-

ter Woods had paid a settlement to them, as well as settling with the town, which the Board of Selectmen had approved.

Applicant Walter Woods went to the podium and said that the Association had signed off completely. He also said that some of the association members were present that evening, and that the Board could ask them. Mr. Corradino, the same representative from the Homeowners' Association who had spoken on its behalf during the default process several months ago, came forward and said that he had personally picked up the settlement money and taken it to the association's treasurer, who deposited it. Walter Woods said that the few projects that were left to satisfy the claim would be taken care of by the Association and then paid for from that money. He said that he has done his job, as agreed, and would like to have the default lifted.

Glenn Farrell reworded the motion, saying that the default was being rescinded based on the attorney letter and information from the Homeowners' Association that they are happy with the settlement.

**Vote** The Chairman called the vote. The motion passed, 4-0, with Lee Corbin abstaining from the vote.

**Bayberry Ridge Elderly Congregate Housing, 14 Styles Lane.** Map 94/Lot 48R. Public Hearing. Application for Preliminary Review of a 30-unit elderly congregare housing subdivision.

Steve Burns said that several years ago, the property was presented to the board as Spring Pond Estates Phase 2. At this meeting, 30 units are being proposed, and a Shoreland Wetland crossing is involved. The application is complete and ready to be accepted, but there are too many units in the Shoreland Overlay portion. The density standard is not met and might be a showstopper. There could be extra units, but they can't go into the Shoreland Overlay.

Walter Woods presented a small history of the proposals. The regulations of the most restrictive zone, the Shoreland Zone, took precedence over the Elderly Congregate Zone, which the parcel also encompasses. When he proposed a large eldercare facility building with many units, he had abutters' objections, so he redesigned the property with 30 residences (scaled down from a possible 51 units based on the density calculation). He said that with what he is proposing, he would have to put in Town Water and Sewer, which will create a water-sewer link to farther properties and be a benefit to the town. He described the increased tax revenue of about \$175,000 per year—without added strain to the school system. He said there was a need for about 920 square feet of fill in a wetland area Soil Scientist Mike Cuomo had determined to be of low value. He said that Terrance Parker had done the landscape plan.

Attorney Natalie Burns introduced herself. Her credentials included working with many Maine municipalities. She had drafted ordinances similar to York's for the City of Portland. She said that the land in the Shoreland Zone cannot use normal density calcula-

tions. "If you apply the Shoreland standard, you have undone the application of the elderly overlay," she said. She cited §8.3.7.2 in contradiction to Steve Burns's cited §10.8.3.3, which says that the areas in the shoreland shall be governed by shoreland rules. She argued that his citation does not have to do with density calculations, but rather with location. "Density calculations do not tell you how or where you locate the buildings," she said.

Chairman Barrie Munro opened the **Public Hearing**. No one came forward to speak, so it was closed.

The chairman asked the board what it thought of the argument. Glen MacWilliams said that the intent of the ordinance was straightforward. Michelle Moody said that she did not read the ordinance the way Natalie Burns explained it. Barrie Munro said that Natalie Burns was overriding the wording with the idea that density could be transferred. Glenn Farrell said that the ordinance is cut and dried. Lee Corbin asked about §8.3.7.2, and how the square footage applies to more than one residential unit. Michelle Moody answered that 40,000 square feet are needed per unit. For a duplex, 80,000 square feet are needed.

**Motion** Glen MacWilliams moved to accept the application as complete for purposes of review. Glenn Farrell seconded the motion. It passed, 5-0.

Steve Burns explained that when he does a review for an overlay district, he first focuses at the part in the overlay, in this case, the shoreland. Barrie Munro said that he wanted to give the applicant a chance to state the case again. Walter Woods said that the development is located in one lot. In describing the Planning Board Process, §8.3.7.2 describes 40,000 square feet per dwelling, but this development is also under elderly care, which allows for more density. The ordinance allows what he is proposing, he said.

**Motion** Glen MacWilliams moved that the Board deny the application based on the fact that it does not meet density requirements along with the argument made in the Findings of Fact. Glenn Farrell seconded the motion, which passed, 5-0.

Speaking into the record, Walter Woods said that he suggests that the Planning Board adopt a process whereby an applicant does not have to spend tens of thousands of dollars, and then find out only three days before the hearing, while meeting with the Planner, that the plan is deemed unbuildable.

Steve Burns commented that if the applicant doesn't ask about density, he doesn't talk about it. The meeting is a chance to discuss the applicant's questions. Barrie Munro said that he wants the Board to have a discussion to find a way to avoid this kind of situation.

**Sohier Park. 11 Sohier Park Road. Map 29/Lot 20. Application to the Planning Board for consideration of a re-design of the park.**

Steve Burns said that §4.2.2 provides that the Planning Board has to approve plans that have to do with Sohier Park. The Board does not have to evaluate the value of the park, and Historic Landmark only applies to the island, not to this part. He discussed the schedule for this application, hoping the plans would go to Selectmen in August and then to the vote in November. Steve Burns was concerned about soil that might be washed away is during the process.

Tony Coles discussed improvements that will increase safety, health, and welfare of the public. Pedestrian and vehicular circulation will be improved with sidewalks and pathways and viewpoints. There will be a bus drop-off along the sidewalk, and there will be improved parking. There will be no increase in the impervious surface area. Additional plants to filter surface runoff and improve appearance of park are proposed. In his presentation, he showed details of granite steps, railing, and curbs. Some areas will be ADA accessible. Glenn Farrell asked about the problem with busses pulling up near the lighthouse so people can take pictures through the window. Tony Coles said that signage would help control that. There will be no new benches. The current benches will be relocated.

Parks and Recreation Director Mike Sullivan said that busses would have a parking limit of about 15 minutes. His office will try to schedule busses in by having them call ahead. Busses are seasonal, with the majority coming during the autumn leaf season. Glen MacWilliams pointed out a discrepancy in the plans, one plan showing concrete sidewalks, and another showing pavers. He preferred the pavers, he said.

**Motion** Glen MacWilliams moved to allow the applicant to have parking spaces and traffic isles within the 100-foot setback. The applicant will keep a 50-foot setback and remove parking spaces that currently exist in the 50-foot setback. Glenn Farrell seconded the motion, which passed, 5-0.

### **Other Business/Adjourn.**

Steve Burns briefly listed other business. The Dunkin Donuts appeal will be on June 22. He passed around a letter from Glenn Farrell in his capacity of Project Manager for YFI Custom Homes, in which a follow-up site visit to the David Woods Project was requested for June 14 or 15. Steve Burns handed out information about the *ALC Development Corp vs. Town of Scarborough* case concerning inconsistency between zoning ordinances and the Scarborough Comp Plan. He said that the Application fees covering Planning Department costs would be going to the Selectmen for determination. He said that the regular Planning Board schedule in July would most likely change to the second and third Thursdays, and the Planning Board would meet with the Selectmen on July 12.

The meeting was adjourned at 10:40.