

York Planning Board
Thursday, February 12, 2009, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Glen MacWilliams filled in as chairman of the meeting and determined the presence of quorum. The meeting started at 7:00. Chairman Tom Manzi and Vice Chairman Lew Stowe were absent. Glen MacWilliams, Barrie Munro, Dave Woods, and alternate Todd Frederick were present. Todd Frederick was asked to vote in place of Lew Stowe. There were four people voting. Town Planner, Christine Grimando, represented planning department staff. Patience Horton recorded 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 November 20, January 8, and January 22 draft minutes.

The November 20, 2008 minutes were reviewed without change.

Motion: Barrie Munro moved to approve the November 20, 2008 minutes, as submitted. Todd Frederick seconded the motion, which passed, 3-0. Dave Woods was not present at the meeting and did not vote.

The January 8, 2009 minutes were reviewed without change.

Motion: Barrie Munro moved to approve the January 8, 2009 minutes as written. Dave Woods seconded the motion, which passed, 4-0.

Review of the January 22, 2009 minutes was deferred. Glen MacWilliams and Dave Woods were not present at that meeting.

Public Hearings on Proposed Site Plan and Subdivision Regulations Amendment

- **Site Plan and Subdivision Regulations §5.5. Amendment to Subdivision Rules and Regulations §5.5, Final Approval and Filing. Adds the requirement to file a Site Plan with the Registry of Deeds within 90 days of Planning Board Approval.**

Town Planner Christine Grimando explained that the clock for filing a site plan with the Registry of Deeds would start when the planning board chairman concurrently signs the Findings of Fact and the Plan, constituting approval. Board approval before that point would not cause the clock to start. The **Public Hearing was opened and closed.** No one came forward to speak.

Barrie Munro explained for people who follow the planning board activities that regulations such as Site Plan and Subdivision Regulations are different than ordinances. Sub-regulations are changed and approved by the body of the planning board, and not voted on by the public in a general referendum. The desired changes to the regulations are presented to the public during two public hearings, this, tonight, being the second one. During the application approval process, the planning board can waive the sub-regulations, whereas only the Board of Appeals can waive the ordinances. Glen MacWilliams said since the public has no comments about this change to §5.5 requiring the filing of site plans at the Registry of Deeds within 90 days of planning board approval, this addition is approved and will go into the sub regulations.

Application Reviews and Public Hearings

- Highland Farm. 1 North Meadow Lane, and 250 Cider Hill Road. Map & Lot: 0090-0029-A and 0090-0030. Request to approve revisions to the General Declaration of Covenants Restrictions and Easements for the Meadows at

Applicant Bob Chappell said he had purchased Lot 14 of the Highland Farm subdivision. Lot 14 is the actual Highland Farm farmhouse and is part of the sub-development. There is no congruency between the other houses of the subdivision and the one he had bought, and because of that, and privacy issues, he has come to the planning board to request acceptance of Amendments to the Subdivision Declarations that will carve his property away from the others. He then handed the application and check to the town planner, as he had not filed them properly beforehand. The Chairman opened the **Public Hearing**.

Wolfe Tone, of the Trust for Public Land, an abutter, said he saw no harm to this action, as long as it does not invalidate the balance of the cluster subdivision.

Christine Grimando said though Lot 14 is being removed from private obligations with the other subdivision owners and from the homeowners agreement, technically, Lot 14 will still be part of that subdivision. Barrie Munro asked if there would still be enough common area to support the subdivision (yes). He asked if this action would prevent independent development on Lot 14. Christine Grimando had not looked into that detail before this hearing and answered probably, if the covenants state no further subdivision is possible, which she believed they do. Bob Chappell said the conservation easement at the front of the property remains intact. He has no interest in further sub-development and would be willing to sign an agreement to that effect.

Motion: Dave Woods moved to amend the Declaration of Covenants Restrictions and Easements for the Meadows at Highland Farm, Phase I Subdivision by removing Lot 14 from private obligations with the other subdivision owners and the homeowners' agreement. In addition, there is a condition precedent that the applicant would agree to no further subdivision of Lot 14. Todd Frederick seconded the motion.

During discussion, Barrie Munro asked Wolfe Tone (Trust for Public Land) if the agreement being proposed would have cause for the Trust to no longer have interest in the acquisition of the remainder of Phase One. Wolfe Tone answered it would not impede or have an adverse impact on any future decision.

Vote: The motion passed, 4-0.

- **BAS Eldredge, LLC. 97 Raydon Road. Map 7 Lot 0091-0008-V. Sketch Plan application for a Route 1 Use Permit for a commercial showroom and storage space.**

Jeff Aleva of Civil Consultants (Berwick) said a sketch plan for this property had been presented to the planning board before, but this is different than that. The applicant now proposes that the old book storage facility on three acres at Raydon and Donica Roads would be turned into a showroom for Eldredge Lumber. There would be no cash registers. Lumber would be brought out of storage in Cape Neddick and put there. The driveway, made by expanding the gravel driveway off Donica Road, would lead to two parking spaces, including handicapped. Drainage design would meet pre- and post-stormwater requirements. He showed a photo of the building as it appears now plus a rendering of it after the proposed renovation. Jeff Aleva continued. There was a permit issued for the applicant to replace windows, but because of animal and water damage, inside, work was done beyond permitted. Code Enforcement issued a stop work order, and Eldredge paid a fine. Eldredge wants to weatherproof the building. Jeff Aleva said the application includes proposed renovations and changes to accommodate truck traffic on Raydon Road. It is necessary to increase the turning area for trucks to load and unload. He showed the turning area on the plot plan.

Glen MacWilliams opened the **Public Hearing**. **Arthur Fossa** and wife **Nancy Fossa** came forward to speak. They are abutters to the immediate right of the storage pad. The storage pad is not far from the Fossa's septic system. Arthur Fossa handed out a 6-page memorandum attached to his own 2-page resume. The resume was to establish his expertise in matters relating to the proposed development. He has had a career in air quality, including noise regulation, and had been a consultant and courtroom expert witness in that field. He spoke to the board about traffic. There are 14- and 18-wheelers on Raydon Road. There is noise from the sound of trucks backing up and unloading on the applicant's property. Odors, light spillage, and solid runoff are concerns. The area behind his house is so wet, it will "suck your boots off in May and September." The possible flooding of his leech field is a concern, he said. He is also concerned about the buffer zone, which will be difficult to design considering the elevated rear decks along that side of the street. There are issues with landscaping, sight distance, and sight angle.

Art Fossa said communication between the applicants is crucial. It is done by making the parties available for dialogue and exchange. When communication is absent, nothing is good. He had not had any contact with Eldredge, but he has seen a lot of activities. The driveway was made, trees cut, propane tanks dropped, and more trees marked with surveyor's tape. Eldredge's lack of outreach speaks to their inability and sincerity to be good neighbors, said Art Fasso. He looked at the board members from the podium and requested they put an end to "this."

Nancy Fasso said a dumpster had been put in at the warehouse site. Dump trucks were going in and out every day last summer. Her family couldn't use the deck or the back

yard because of it. Eldredge stated there isn't an access road off Route 1, she said. The trucks come out of the blue, and they ruined her family's summer. She handed the chairman petitions signed by neighbors who have the same concerns she does.

Sharon Decato or 47 Donica Road went to the photograph and the rendering of the proposed building Jeff Aleva had brought. On the photo, she pointed out where land in front of the building used to be filled with trees. When she moved in, in 2003, there was no driveway. Now there is a driveway, and it is 11 feet from the corner of her land. Donica Road has been turned into an extension of Route 1, she said, but was developed as a neighborhood. The access from Raydon Road should not be used. Snow from the newly created driveway is plowed onto her land and melts into her yard. She has been woken up as early as 6:20 in the morning by the backup beeps of trucks accessing the property. The deliveries are at ridiculous times, she said. There are sounds of dumpsters being dropped. Donica Road can't accommodate the trucks. If approved, the use will not allow the neighbors to enjoy their yards or even open their windows.

Jeremy Prescott sees the subject building from his house. It was a low impact warehouse, and what has become a driveway was a primitive footpath before. Now there are 2,000 square feet of pavement, de-forestation, drainage concerns, and an expanding entrance. Trucks have gotten stuck on Raydon Road trying to back in. Too much business is getting too close to the residential area. He's not against business, but he does not want business access from the residential street. Eldredge is so large, they might have to give out a map to show customers how to get to the showroom, he said.

Judy Dervishian, 25 Donica Road, said Eldredge has sprawled without regard for neighbors or code enforcement. They expanded in 2002, and then got approval for it in 2004. She was notified when the restaurant area was converted to a garden center, so she went to see it. She asked to see the plans, and said she was only, and deceptively, shown one-third of them. In making Donica Road a route for trucks, there was no regulation for truck activity going on 7 days a week. She built a fence so she didn't see the trucks, but she still heard them. She can't enjoy her deck. The garden shop became a rental center for tools and kayaks, not as was proposed. Eldredge never reached out as a good neighbor. Whatever they apply for, they will end up with something else, Judy Dervishian said. She described the dumpster business that went on with big, yellow dumpsters. That was also done without consideration for abutters, she said. One day when she looked out the window, they were unloading dumpsters. She went to Code Enforcement Officer Tim DeCoteau. The dumpsters were removed, but three weeks later, six were back, lined up in a row. There is an 18-wheel flatbed on that property that has been there for over a year, she said. They have damaged the neighborhood with tree cutting and road building. She asked the board, please find them in default. Have them restore the property. Set up a site visit and see for themselves.

Dennis Whall of 40 Donica road pointed out that the building's handicapped entrance is shown next to six or seven stairs, not a ramp. Eldredge has been in York since 1937. It's ironic that over the years, it has evolved into a business serving the building needs of the community while its own example is to go against permits and being fined for doing so.

Veronica Whall thanked the members of the York Planning Board for the service given to the Town. There are 26 homes on Donica that boast their sense of family and community. Eldredge is showing the behavior of a big box store that has no regard for its neighborhood, and that attitude will impact Donica Road adversely. Since Eldredge cannot regulate itself, said Veronica Whall, residents are asking the planning board to do it.

Loretta Prescott said environment and noise, proximity, development of new use, and traffic and safety are among the issues the neighborhood has with Eldredge. The wetland is a huge issue. What are the future plans for this building? Isn't it odd, she said, that they are expanding in size when other companies are laying people off. The abutters do not know what to trust and what ultimately Eldredge is going to do. The abutters won't know what is going on until the permitted is requested. There have been as many as 10 ten yellow dumpsters left next to the building, and they have been hauled in and out all day long. When she finished speaking, the Public Hearing was closed.

Christine Grimando said tonight's hearing is a sketch review, and full submission is not required at this point. She promised that the application process would be thorough. She had spoken to Planning Board Chairman Tom Manzi, who was concerned about issues of code violation. So, she went to Code Enforcement to document what issues there have been in the past few months. When the applicant had been found exceeding the permit issued for internal renovation for doors and windows by including the exterior of the building, there was a stop work order. A fine was subsequently paid, and the applicant can go ahead and seal up the building. Then there was a call to code enforcement to investigate tree cutting in the Route 1 buffer area. The applicant was told to submit an application to address the work done on the site. There is no open application at this time. There is nothing to prevent board review. The work done with driveway, gravel, and cutting will be reviewed, but there is no guarantee that aspect of the work will be approved. An existing conditions plan is necessary to show existing conditions on the site. If the application is not approved, it has to be restored to the former condition. Vice Chairman Lew Stowe had shown concern to Christine Grimando about nonconformity. The building is closer to the lot line than allowed and therefore does not meet the setbacks. How did the rear setback get established, he had asked her. There is the major issue of the illegal wetland fill on the site. It's important to examine the outdoor storage. Buffers and setbacks intruding into the buffer yards are critical to this review, as is the traffic of Donica Road.

Barrie Munro instructed that applicant to be a good neighbor. For the site visit, which the public can join, things have to be flagged. He listed some of the complexities found in §6.3 that will possibly be controversial. Issues include habitat, floodplain, stormwater drainage, a possible High Intensity Soil Survey, and a traffic assessment, depending on what items are planned for this application. Ordinances require compliance with parking, odor, light glare, and drainage. All these things have to be done in advance to show they been thought out and not avoided. Christine Grimando said there is no site plan on this property. The applicant will have to address all of it and present a major site plan application.

Barrie Munro continued. In Route 1, Zone 3, certain items are not permitted: truck stops, salvage junk wrecking yards, waste transfer or waste processing terminals. Todd Frederick said he concurs with Barrie Munro, stressing the need to be good neighbors. Glen MacWilliams was concerned about the cutting and driveway disturbance. Jeff Aleva said there was cutting in March 2008, there was a field survey with a contour map made with descriptions and delineation of the wetlands. The gravel driveway had been used for oil and coal delivery over the years, so the surveyors picked it up on that survey. The deck and porch cause the conclusion that there was parking on the south side. When the interior work was done, they did the utilities, and they put in a utility pole and underground utilities, so trees were cut for that. The trees will be surveyed. Jeff Aleva thinks the tree count will beat the town requirement for the buffer. On the plan, he pointed out buffer changes that will be made, suggesting an adequate screen between the abutters. Barrie Munro reminded the applicant that the Planning Board has the right to request buffering in addition to that specified in the ordinance. Barrie Munro asked for a scale cross-section of the property. Glen MacWilliams asked that the residential properties go on the plot plan. Jeff Aleva said there would be no outdoor lights. He will adjust the plan so there are no waivers or zoning issues. He will adjust the plan so trucks come off Raydon and loop in and back up to the loading dock.

Motion: Todd Frederick moved to defer any decision about the cutting in the buffer yard until after the site walk. Barrie Munro seconded the motion.

In discussion, Dave Woods thought Jeff Aleva should prioritize the calculations about trees in the buffer yard to see if there are enough to fill the requirement. Barrie Munro commented the landscaping would need a lot of understory.

Vote: The motion passed, 4-0.

Jeff Aleva said Eldredge is indeed, despite the poor economic climate, expanding. Glen MacWilliams asked for an architectural rendering of the building. When finished, the building should be open by appointment from 7:00 A.M. to 5:00 P.M. Deliveries should be from 7:00 A.M. to 5:00 P.M. Barrie Munro expected to learn exactly what would be stored in the building. He expected full understanding of the truck traffic activity.

Applicant representative **Dan Remick** said Eldredge Lumber did get into the rolling dumpster business, but the dumpsters arrived too early. They are not selling the dumpsters. They have nothing to do with waste. Dave Woods told him Eldredge has control of timing with shippers. If a delivery shows up at night for the next morning, the truck should park in front of the main store. Dan Remick agreed to that and said he has not gotten a complaint about truck traffic from Raydon Road. There was one complaint eight years ago. Dave Woods said mandatory overnight deliver truck parking in front of the main store must become a note plan. Glen MacWilliams asked that the project be designed to address the “sentiment” of the abutters. He asked the applicant not to discuss the matter with the abutters outside of a meeting.

Public Hearing on Proposed Planning board By-laws Amendment

- Planning Board by-laws Article 11, Subcommittees. **Amendments to add alternate members to Subcommittee Composition, add term limits, and address requirement for Subcommittee members to be sworn in.**

Christine Grimando said the Planning Board By-laws indicate that the Planning Board will decide on the terms of a subcommittee, so term limits are not necessary. Per 11.2.1, two alternates are required, and the language of the by-laws amendment reflects those terms. The language “**and 2 alternates,**” will be added to that section in the sentence that reads, “Subcommittees shall consist of a maximum of 9 members **and 2 alternates.**”

Another change to the by-laws, Christine Grimando further explained, is that the last sentence of §11.1 will be struck. By taking the sentence out, the practice of swearing in subcommittee members will be discontinued. The following sentence is the sentence that will be struck from §11.1: ~~All subcommittee members shall be sworn in to uphold the office in accordance with the Town Charter.~~

Christine Grimando recommended a small change to the *Member Statement—Town of York Model of Excellence*, which, as a condition of the by-laws, requires board members, and now subcommittee members, too, to sign a statement that they, by signing the document and becoming part of the York Planning Board or York Planning Board Subcommittee, are willing to, in general terms for this paraphrase, treat each other and people they contact with respect, civility, and courtesy, be honest and fair in all respects, serve a common good, and greatly respect the Town.

Motion: Dave Woods moved to make amendments to the Planning Board By-laws. In §11.2.1, a subcommittee will have 2 alternates, as well as the usual membership. In §11.1, language about swearing in the subcommittee members in accordance with the Town Charter will be stricken. Also, The Member Statement for the Town of York Model of Excellence will be adjusted to include subcommittee members as signers of the document. Todd Frederick seconded the motion, which passed, 4-0.

In New Business, Old Business, And Other Business

Glen MacWilliams said the planning board’s one alternative has not been attending. Christine Grimando said Valerie Gunn is too busy. People do not realize the size of the commitment. Getting through the learning curve is especially time consuming.

Annual Report-discussion of Planning Board entry: Barrie Munro said the planning board is trying to clarify its ordinances, build accountability, and bring the Comp Plan to a more current status. We’ve been working on drainage, and shifted the size of the standard storm from 50 to 100 years, he said.

Christine Grimando said the meeting of the 26th would be at the Senior Center. The guest speaker from DEP will talk about ground water. There will be a follow-up presentation about affordable housing.

The meeting adjourned at 9:30.