

York Planning Board
Thursday, November 10, 2011, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Vice Chairman Todd Frederick conducted this meeting in the absence of Chairman Lew Stowe. A quorum was determined with four people voting: Todd Frederick, Torbert Macdonald, Jr., Dave Woods, and alternate Glazebrook, who voted in place of Tom Prince. Lew Stowe, Tom Manzi, and Tom Prince were absent. Town Planner Christine Grimando represented the York Planning Department. Patience Horton took minutes.

Todd Frederick thanked the York voters for passing the Green Enterprise Recreation Overlay District, at 3179 to 587, a future use policy the Planning Board had been working on for about two years.

Public Input

There was no Public Input.

Field Changes

There were no field changes

Minutes

The October 27, 2011, minutes were reviewed, and board members requested corrections.

Motion: Torbert Macdonald moved to approve the minutes as amended. Dave Glazebrook seconded the motion, which passed, 4-0.

Public Hearing

This is a proposed amendment to the Site Plan & Subdivision Regulations regarding Field Change thresholds. This is the first of two public hearings.

Town Planner Christine Grimando said field changes are expedited processes for making minor changes to an approved plan. She handed out copies of the current phase of the amendment. Recently, as part of the amendment, the board had asked for abutter notices regarding field changes. But if we think there is a need for abutter notices, Christine Grimando said, it is a sign that it is not a field change. Also, abutter notice fees are not collected to send out abutter notices.

The revision for lighting changes is about aesthetics, in this version. The ability to change light appearances will be a field change, as long as there is no lighting level increase and as long as the Planning Board already approved the lighting. She agreed that the work "aesthetic" should be taken out. Dave Woods said he would not want any ordinance that would be hard to enforce. He said a CEO should take care of a field change,

rather than having someone come to the planning board. Two public hearings had been proposed around this ordinance amendment, but because so much substance was being altered, there will be three public hearings.

Field changes for planting substitutions must dictate use of native species, exclusively, said Torbert Macdonald. That would mean no Burning Bush, nor Norway Maples. An owner might like ornamentals, as long as they are not planting invasives.

Torbert Macdonald moved to open the **public hearing**. No one came forward to speak. The public hearing was closed. The item will be placed on the December agenda.

Application Reviews and Public Hearings

Kelly Shoreland Permit: 113 Long Beach Ave; Map & Lot 0031-0101 Application for foundation replacement in the Shoreland Zone

Christine Grimando said the existing building does not meet Shoreland setbacks. A new building with improved placement and less conformity is being proposed. As it is replaced, conformity can be met in some setbacks. The front setback is nonconforming. Thane Pearson signs in on the project. The application will be subject to floodplain. The building will have to be on pylons.

Applicant Gary Woods presented an elevation showing that the actual floor level will be the same, though the height of the foundation has changed. Todd Frederick opened the **public hearing**. No one came forward to speak. The public hearing was closed.

Motion: Dave Woods moved to approve the Kelly Shoreland Permit, 113 Long Beach Ave., Map & Lot 0031-0101. Application for foundation replacement and building replacement in the Shoreland Zone. Dave Glazebrook seconded the motion, which passed, 4-0.

York Convenience Store 4 U.S. Route 1, Map & Lot 0086-0001 Sketch Review of a Site Plan and Route 1 Use Permit application for the renovation of an existing building into a convenience store.

Architect Baudo presented this second sketch review. The first was on September 1, 2011. The existing building will remain. Affordable apartments will be above the proposed convenience store. A new building will be between the existing, abutting seafood restaurant and the existing barn structure. One building will have a combination of retail and apartments. There will be a Laundromat. There has been a traffic study. The traffic engineer indicated that the best possible way to avoid congestion is to build the new combined exit/entrance 24 feet across. A curbing island will be located on the north and south side of the entrance. Christopher Baudo has met with Kittery Sewer Department about a proposed extension of the sewer line.

The buildings will be white with black asphalt shingles and a gambrel roof. There will be tandem (stacked) parking. Each apartment will have two spaces in an enclosed parking structure. One building will be a tourist home with a series of rentable units.

Dave Woods said the convenience store needs more parking, and that parking cannot be far away from the store. Christopher Baudo said the convenience store could be moved to a different building.

Todd Frederick opened the **public hearing**. **Bill Holler** owns the seafood restaurant next door. He said the adjacent property is shaped like "little Arkansas." The property will bring more traffic to his own property, and he is worried about losing parking. Parking is his biggest concern. There are wetlands out in the back.

Dave Woods said that if the connection to the sewer were made, the septic tank and leach field would be off the table. Christopher Baudo said we have the direction to provide the connection at the street for the seafood restaurant. The design will be able to meet the capacity of the seafood restaurant. Bill Holler said cars were proposed to park over the leeching field. Christopher Baudo said there is an easement from the septic system to the restaurant. He would like to see some beautification to the corridor.

Steven Belesis is a member of the family that owns the abutting restaurant property. He said that there is not a lot of parking on the applicant property, and asked how to support so much retail space with such a limited amount of parking. He suggested putting in an office building that would not take up so much need for parking.

Christopher asked about the possibility of setback waiver. There are no possible setback waivers. Christine Grimando said the parking can get as close as 10 feet, but there is a bufferyard standard on Route One. Todd Frederick suggesting tearing down Building 4 and rebuilding. Dave Woods said the parking could continue to exist in front. This could bring proper vegetation on Route One. He felt the building could be torn down.

Torbert Macdonald said that because of the slope and increase in impermeable, there might be a need for permeable paving. He asked where the runoff is going to go. Christopher Baudo said the water would be moved to the rear of the lot. Stormwater basins will run water over riprap and then into the actual wetlands. This wetland is below four acres. Four acres triggers Shoreland setback.

Dave Woods said the board is going to have to have a phase plan submitted.

Bayberry Ridge/Spring Pond Estates Amendment, Orin Lane, 254 Ridge Rd., and 17 Styles Lane. Map & Lots 0094-0084-R/0032-0003/0094-0084-K. Revision to two previously approved plans. Application for lot line change to join two parcels, and request for density reallocation.

Christine Grimando said that this is an amendment to three previous planning board approvals. It would join two separate lots that do not touch, possibly with a flag lot, making

a lot line adjustment. The further purpose of the application would be to recalculate re-buildable land so density limits can be met. Site Plan & Subdivision Regs do not allow flag lots, and the board would have to approve a waiver request.

The larger issue is that the land is conservation land. Land that is placed in conservation cannot also be counted toward development land. When land is placed in a conservation easement, the planning board does not have a mechanism for the conservation land to be used elsewhere. Density rights cannot be given based on revised calculations from conservation land, so the board cannot allow that. However, the Planning Board can make decisions about lot modifications.

Walter Woods showed a plan of the area where he requested to trade conservation land for density credits in Bayberry Ridge. He read a statement he had prepared. It included a history of prior approvals and his understanding of both the lot line adjustment and the legal mechanism available to adjust the density.

The chair opened the **public hearing**. **Carol Lord** said this is an unfortunate situation. A mistake was made. She described the aesthetics of the small subdivision. As you enter, there are six duplex buildings on the right. On the left, there are two large empty spaces, some single homes, and a community center. The planning board had approved a plan that had houses on both sides of the street. The current gateway is not in keeping with how it was designed. It is unbalanced and aesthetically displeasing, she said.

Mel Bates said he had lived there for 2.3 years. Money has been assessed to make the subdivision function. The assessment is based on 17 units, and we have 15. He said he wants this problem to come to a halt so Walter Woods can finish it. Todd Frederick closed the **public hearing**.

Christine Grimando said a Conservation Note the planning board had originally entered on the plan exceeded its jurisdiction. The note was not enforceable under Zoning, and that does not need to be debated. Torbert Macdonald said this board does not have to honor illegal actions taken by the previous board. He said that with 7.6.7, we couldn't create flag lots, which have narrow strips that allow separated lots to meet.

Dave Woods said that someone made a five-foot mistake that no one can waive. Everything in the Shoreland regulations can be waived in the right situation. This development should be built the way it was approved. That is the common sense approach. We have to adjust our regulations, because the building can't be moved. We have the ability to waive. Dave Glazebrook said it is in the public interest. It has to do with making the property more aesthetic.

Torbert Macdonald said it has to do with the integrity of the process. You can't "finagle" the density. Nobody has the ability to waive that.

Walter Woods said that the point is that there is no ordinance that says you cannot use density with a conservation area. He has submitted an easement signed by Helen Wein-

baum. He did due diligence. He had the surveyors stake every foundation. One or two of the pins were knocked over. One corner is five feet forward, and one is five feet back.

Town Planner Christine Grimando said the lot line adjustment and the recalculation of density are the two voting issues this evening. If the flag lot is denied, both issues are denied. If the flag-lot lot-line adjustment is approved, she recommends denial of the density adjustment.

Motion: Torbert MacDonald moved we deny the flag lot waiver request. When the motion was not seconded, the acting chair, Todd Frederick, seconded the motion for purposes of discussion. The motion was defeated in a tie vote: 2-2.

Walter Woods asked to have the outcome sent to him in writing. He asked to have his application heard when there would be a full board present.

New Business

There was no new business.

Old Business

Mylars and Findings of Fact for Phillips Cove and Anthony Foundation Replacement.

Motion: The Chair said he would accept a motion to approve Findings of Fact for both Phillips Cove and Anthony Foundation Replacement. Torbert Macdonald said, "So moved." Dave Glazebrook seconded the motion. It passed, 4-0.

Christine Grimando said an exciting KEYES training session was coming up on Monday, December 5, at the Dunaway Center, Ogunquit.