

York Planning Board
Thursday, July 28, 2016, 7:00 P.M.
York Public Library

Call to Order, Determination of Quorum; Appointment of Alternates

Chairman Peter Smith called the meeting to order at 7:00. A quorum was determined with five people voting: Chairman Peter Smith, Vice Chair Amy Phalon, Board Secretary Gordon Eldridge (who specifically represents York Beach), Al Cotton, and Lew Stowe. Alternates Kathleen Kluger and Wayne Boardman were present but did not vote. Lee Jay Feldman, Director of the Southern Maine Planning and Development Commission, was planner for the Long Sands bathhouse application, and York Planning Director Dylan Smith represented staff on all other business. The chairman congratulated Patience Horton for her “excellent, enduring, dedicated” service as minutes recorder on the 15th anniversary of her first planning board meeting.

The Energy Chapter Comp Plan Amendment, which was on the agenda, was continued to August 11, 2016.

Chairman Peter Smith led the election of officers for the coming fiscal year. Two slates were presented simultaneously. Al Cotton moved to keep Peter Smith, Amy Phalon, and Gordon Eldridge in their respective positions as Chairman, Vice Chairman, and Board Secretary. Gordon Eldridge seconded the motion.

In the concurring second slate, Lew Stowe nominated Amy Phalon for Chairman. Gordon Eldridge nominated Peter Smith as Vice Chair. Amy Phalon seconded both nominations. Gordon Eldridge was appointed to the slate as Secretary.

A vote was called for the two slates. The first slate failed 2-3 (with Amy Phalon, Lew Stowe, and Gordon Eldridge opposed). The second slate prevailed 3-2 (with Peter Smith and Al Cotton opposed). Al Cotton moved that the votes had to tally unanimously. Peter Smith seconded the motion. A vote was not pursued.

Amy Phalon assumed the gavel as the new Chairman. Peter Smith became Vice Chair, and Gordon Eldridge retained his post as Board Secretary.

Public Hearing

York resident Torbert Macdonald told the board that Zone RES-1B, “the Heights,” where he lives, must be rezoned. The requirements for setbacks on residential properties are unduly oppressive. He also told the board that pertaining to Goal 6.3 of the Comp Plan, it is important to preserve and protect large un-fragmented habitat blocks located in the town. He hopes the Planning Board will help those issues come to light.

Chairman Amy Phalon closed the Public Hearing.

Minutes

The minutes of July 7, 2016, were reviewed, and corrections were requested.

Motion: Lew Stowe moved to approve the July 7, 2016 minutes as corrected. Peter Smith seconded. The motion passed 5-0.

Field Changes

Cliff House 591 Shore Rd. Map & Lot 0004-0029.

Cliff House project manager Chris Rupp requested a temporary occupancy permit for the Cliff House. Preparations have to be made to stock the hotel and kitchen. The Cliff House opens in August, but staff cannot work inside without a temporary permit. CEO Amber Harrison and Assistant Planner Scott Hastings have reviewed and approved the field change.

Motion: Peter Smith moved accept the field change for the Cliff House, 591 Shore Rd., Map & Lot 0004-0029, to support a temporary occupancy permit. Al Cotton seconded. The motion passed 5-0.

Fisherman's Dock 674 U.S. Route 1; Map & Lot 0091-0004-A.

CLD Engineer Rick Lounborn said a second leech field has to be added to the restaurant property. The change meets the criteria of 5.6.5., as it will not affect the building or landscaping. The second leech field was designed by a soil scientist and will be located under the gravel parking area.

Peter Smith said that, because the “field change” involves septic design by a soil scientist and significant construction, the board should allow the applicant to move forward to do the work, with the provision that the project engineer comes back with an application to amend a previously approved plan.

Motion: Al Cotton moved that, per the assistant planner's recommendation, and considering the emergency nature of the situation, the board may consider granting an informal “go ahead” to conduct the work as proposed, with the understanding that the applicant will come back with a full application for an after-the-fact approval. Peter Smith seconded. The motion passed 5-0.

Public Hearings—Applications

Long Sands Beach Bathhouse—178 Long Beach Avenue; Map/Lot: 0033-0152-A.
The applicant, the Town of York, is proposing removal of the existing bathhouse and construction of a new bathhouse with expanded capacity and associated road realignment and a landscape amenities.

Lee Jay Feldman said that this application can be found complete in accordance with the checklist. The project cannot move forward, though, because DOT has not reviewed or signed off on the road realignment. The Board of Selectmen have jurisdiction over the road alignment, not the Planning Board.

In the York ordinance, flood plain regulations require that new construction, or substantial improvements to non-residential structures that are located in the AO zone, as the bathhouse is, must have adequate drainage paths around the structures or slopes to guide flood water away from the structure. This building does not have such drains. The applicant has not provided them in the plans.

Neither has the applicant met the requirement for the elevation of the building. Per local ordinance, the elevation of the building shall be three feet above Elevation 14, which is the highest adjacent grade. This is one case where the York ordinance is stricter than the State Statute. The applicant has not met this requirement.

Sea level rise is discussed in Comp Plan Sections 6.4.2, 6.4.3, and 6.4.4. This application shows no evaluation of sea level rise in relation to the building's amenities. Lee Jay said that sea level is predicted to rise 3.3 feet (one meter) by the end of the 21st century. Project engineer Steve Bradstreet later said there is no actual calculation for sea level rise.

Lee Jay has recommended in his memo that the board table the application until the issues are resolved, preferably with the help of a third party engineer.

The flood plain and sea level rise are two separate issues, Lee Jay said. The flood plain is impacted in rain and storm events. The local flood plain ordinance says that the lowest floor of a building shall be elevated three feet above the highest adjacent grade, 14 feet. That requires the floor level to be 17 feet.

Motion: Gordon Eldridge moved to have the Planning Board table this application until such time as the flood plain issues get resolved and a third party engineer can be retained to review the flood plain issues. The motion was not seconded. Mr. Eldridge retracted the motion.

Motion: Al Cotton moved to accept the application as complete on a temporary basis, with the understanding that we will learn more as the applicant makes their presentation. Peter Smith seconded the motion. In discussion, Peter said that by deeming the application complete on a temporary basis, the applicant will be able to address the technical concerns for board. The motion passed 5-0.

Project Engineer, Steve Bradstreet from Ransom Consultants, stood at the easel and reviewed the conceptual design of the bathhouse. This is how the elevation has been determined by the designers: the bathhouse floor is located and has to stay at 14.66 feet, because its elevation is incorporated into the elevation of the sidewalk, 14.66 feet. It is determined by the sidewalk. The adjacent vehicular ramp that allows emergency and maintenance vehicles onto the beach is also integrated with the current sidewalk elevation and should not be changed. Long Sands Beach is 4,800 feet long.

Steve Bradstreet continued. Flood proofing is critical to the new building, and drain paths are being designed for it. The granite block seawall is being reset, as well. Because the seawall is set at an angle, water flies off it and shoots up over the roadway. The granite blocks will be vertical-ized when the sidewalk is widened, and then when wave action hits the square vertical plain, it stops dead.

Landscape architect Bob Walter and building architect Bill Waters presented plans for the physical building and grounds. The building is made of concrete masonry units that will endure high tides and storms. A drainage system will let water surge into the building and back out again. A shady area of overhanging roof has been added to offer some refuge from the sun. A vegetated area and a frontal sand dune have been added to the plan. The dune requires a DEP permit.

The flood plain requirement is the persistent problem. Planner Lee Jay Feldman told the board that the Short Sands bathhouse, completed in 2014, meets the federal flood plain requirement, but it does not meet the local ordinance. In the course of hearing this application, the board can change the requirement, as long as the federal requirements are met. Lee Jay Feldman asked to have the information in this paragraph put into the record.

Chairman Amy Phalon opened the Public Hearing.

- Jim Carmody of York Beach said he has attended two Selectmen hearings and two Planning Board hearings about the bathhouse, but there is never a traffic engineer present who can answer questions and discuss road issues. At this hearing tonight, Mr. Carmody has been told he may not speak of traffic or the roadway at all. He is a professional traffic engineer. He believes there are errors in the plan that should be part of the public discussion, but they are not.
- Sue Larson had heard through the Selectmen that it is possible that the bathhouse building might have two stories and need an elevator. How can the Planning Board make any decisions about a building when you don't even know if it has one story or two? Mike Sullivan answered that there is no indication of a 2-storied building.
- Steven King suggested moving the bathhouse to line it up with the road. He said the proposed elevation of 17 feet is absurd.

- Elaine Gosselin, of 175 Long Beach Avenue, said the other bathhouse located at Short Sands is perfectly located because it does not block anyone's view, the way this one does. There should be port-a-potties along the Long Sands beach. "The new bathhouse affects my views and property value," she said. Is a bathhouse like this necessary to exist for two short months of the year? She asked when a traffic study would be done. Mr. Bradstreet answered that there was a traffic study done on July 1, 2015, at the height of the season.
- Steve Gard, of 4 Sea Road Lane, lives 200 feet from the bathhouse. He said the bathhouse is larger than twice the original capacity. When he tore down and rebuilt his house, the Town gave him harsh restrictions. He could only increase his building by 22%, and he could not even put pavers in the driveway. The Town of York can have anything it wants, he said. Everybody else is required to meet the ordinance, "But we don't have to," says the Town. The new roofing blocks more of the view. Finding shade at the beach is laughable. That's not part of going to the beach. Why offer it now? He called the 70-day annual bathhouse use "overkill."
- Donna Coughlin has lived close to the bathhouse for close to 60 years. The bathhouse does need to be redone, but who is going to pay for the water and repairs? If the Planning Board is not in charge of the traffic flow, who is? "Get it together," she instructed the board. "Put the ducks in a row, and make it work"! Mr. Sullivan answered that funding comes from taxes.
- Jane Burrows, 175 Long Sands Beach Avenue, asked if blasting is going to affect the foundations of local houses. Steve Bradstreet answered that in 1945, the Army Corps of Engineers built the sea wall. It is backed with fill material like coarse gravel, boulders, and cobbles--not sand. Engineers who recently bored into the ground to find ledge didn't hit ledge until 19 feet down. There will not be any blasting under that circumstance.
- Frank McKone of 177 Long Beach Avenue, said it is difficult to get a complete picture of the project, if the Planning Board won't hear about the traffic pattern and the road. Every summer, his house becomes a busy drop-off center for beachgoers. Nearby parking is used up by tractor trailer trucks delivering to the little convenience store. This morning there were three trucks! The traffic information is very important. The bathhouse is overkill. The Town feels they have a chance to make something better into the next century, but I would hope by the next century, they will find ways to put bathrooms up and down the beach.
- Dave Camacho, two Sea Rose Lane, said the new larger roof affects his view of Boon Island and the ocean. This is more than a bathhouse should be, he said. To me that's not necessary.

The Chairman closed the Public Hearing.

Lew Stowe said the building will not meet the flood plain requirements that are in the ordinance. It is an issue that takes us back to the Short Sands bathhouse and the designation of "water dependent use," which this also has. I would like to research

water dependent use, he said. If we move the application forward by giving it preliminary approval, we can answer the big questions at the next meeting.

Motion: Al Cotton moved to grant preliminary approval with the provision that we secure a third party engineer. Peter Smith seconded. The motion passed 4-1, with Gordon Eldridge opposed.

Public Hearings—Comprehensive Plan Amendments; Energy Chapter

This agenda item was not covered during this meeting. It has been continued to the August 11, 2016 Planning Board meeting.

Preference Votes on November 2016 Ordinance and Comprehensive Plan Initiatives

Chairman Amy Phalon asked the board members to show their preference, or non-preference, for the six individual initiatives listed below. In every case, every member showed their preferences with a show of hands, 5-0.

- A. Interpretation of District Boundaries
- B. Wetland Protection Overlay District
- C. Article 8—Shoreland Overlay District
- D. Definition of Wireless Communication Facility
- E. Definition of Building Height
- F. Expansion of the York Village Center Local Historic District.

Follow up from Planning Board / Board of Selectmen work session

To be forwarded to a later board meeting (not yet set)

Review Future Planning Board initiatives

Also forwarded to a later board meeting (not yet set)

Other Business

Motion: Lew Stowe moved to send the Hannaford application back to the applicant for more information. Gordon Eldridge seconded the motion, which passed 5-0.

Motion: Al Cotton moved to have Chairman Amy Phalon sign the Bog Road Findings of Fact. Peter Smith seconded the motion. The motion passed, 5-0.

Adjourn

Peter Smith moved to adjourn. Gordon Eldridge seconded. The motion passed 5-0.
10:30