

**York Planning Board**  
**Thursday, June 28, 2012, 7:00 P.M.**  
**York Public Library**

**Call to Order, Determination of Presence of Quorum**

Chairman Lew Stowe ran the meeting. A quorum was determined with five people voting: Todd Frederick, Torbert Macdonald, Jr., Lew Stowe, Dave Woods and Dave Glazebrook voting for Tom Manzi. Tom Manzi and Tom Prince were absent. Town Planner Christine Grimando represented Town Planning. Patience Horton took minutes.

**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**

The June 14, 2012, Minutes were reviewed. Changes were requested and given to the secretary.

**Motion:** Torbert Macdonald moved we accept the minutes of June 14, 2012, as amended. Todd Frederick seconded the motion, which passed 3-0-2. Dave Glazebrook and Dave Woods were not present.

A letter from a member of the Board of Selectmen, acting as a citizen, had been received. After discussion, the Planning Board decided the letter did not fall into Planning Board jurisdiction, and it was not discussed. When the subject came up later, Town Planner Christine Grimando said the letter would be available at Town Hall for anyone who wants to read it.

**Public Hearings on Proposed Ordinance Amendments**

<b>Ord-1 ADU Ordinance</b>	<b>Siting and Dimensional Standards</b>
<b>Ord-2 Zoning</b>	<b>Reformat Article 4, Civic and Public Use Regulations</b>
<b>Ord-3 Zoning</b>	<b>Dimensional Requirements for Non-Conforming Lots</b>

**Ord-1 ADU Ordinance; Siting and Dimensional Standards**

**Town Planner Christine Grimando** described an ACU, Accessory Dwelling Unit, as a small apartment that is part of, but secondary to, an existing single-family home, or is built onto an accessory structure, like a garage or barn. It must have a kitchen, bathroom,

and bedroom arrangement. Chairman Lew Stowe opened and closed the **Public Hearing**. No one came forward to speak.

According to Torbert Macdonald, who wrote the original ordinance some years ago, the dwelling size could be between 300 square feet and 700 square feet. The maximum size has changed by this ordinance amendment to 900 square feet.

Discussing porches, Lew Stowe questioned whether enclosed porches should be included in the square footage. He suggested that screened porches should not be included as part of the measurement. Torbert Macdonald said that screened porches extend the living space. Dave Woods suggested that a structure should not exceed 750 square feet of living space to accommodate some porch space. Torbert Macdonald said a 700/200 gross floor split would work. 700 square feet would be finished living space, and the extra 200 could be limited to decks, porches, and solar greenhouses. As soon as a roof is put on, it becomes a permanent structure.

Dave Woods said that if the measurement went to 775 gross, with porches and living space combined, it gives outside space, if they want that. The group decided an entryway should be calculated into the ADU. The measurement is to include all enclosed spaces.

The size of the ADU can be no more than 75% of the size of the principle residence. Per Sec. 12, only 50% of an ADU that is attached to an accessory building can be permitted on the ground floor. Stairs are not an issue for ADUs in single-family residences. The ADU is an offshoot of the growth ordinance, an ordinance that was eliminated. This allows for increased density in a limited growth area without increasing the footprint.

Dave Woods said that the accessory structure has to be in place for two years before the accessory structure is put in. That would keep the owner from “gaming” the system. That two-year period would “flush out the opportunist.” Torbert Macdonald said that the garage, workshop, office (etc.) shall not be utilized with kitchen/bedroom living space until the accessory structure has existed for a period of two years.

All residential units are subject to impact fees. Per Section 5, unfinished attic space is not considered in the square footage. Basements cannot be part of unattached buildings, said Dave Woods, but ADUs can have basements in primary houses.

A Public Hearing was opened for all three ordinance amendments reviewed this night.

**Motions**: Torbert Macdonald moved that we open a **Public Hearing** for all hearings held before us tonight. Todd Frederick seconded the motion. The motion passed 5-0.

No one came forward to speak.

**Motion**: Torbert Macdonald moved that we close the **Public Hearing**. Dave Glazebrook seconded the motion. The motion passed 5-0.

## **Ord-2 Zoning; Reformat Article 4, Civic and Public Use Regulations**

Torbert Macdonald listed aspects of Civil and Public Use Regulations that should be permitted by the Planning Board, rather than the Code Office: hospitals, medical facilities, all municipal, cultural facility, membership organization, religious use (when the zone is strict), and stream protection. He said this will make all applications uniform and make the Public Hearing Mandatory. Municipal uses of any kind of environmental threat should not be exempt from Planning Board review. The more fragile the environment, the more it is mandated by review by the DEP.

Utility districts could be split, said Christine Grimando. The board does not review what is under the street. Transformers and pumping stations are on solid ground, because the structures are above ground. But when there is digging, the utility districts petition the ballot, and that is how the Town is dealing with it. All new above ground infrastructure in every zone should be subject to public hearing before the Planning Board, said Torbert Macdonald. Christine Grimando said utility does not get reviewed.

## **Ord-3 Zoning; Dimensional Requirements for Non-Conforming Lots**

At the last workshop, Bill Dignan raised an old issue that has been known about for a while, said Christine Grimando. Ord-3 is a clean-up amendment to that old issue. It was discussed at the last workshop meeting. For oddly shaped lots, some scenarios showed that the 12% setback was actually greater than the base zone setback. This corrects that phenomenon.

## **New Business**

**Torbert Macdonald** gave a speech. (This section is near verbatim.)

“Mr. Chairman, I would like to say goodbye to you all before you get into how you are going to continue without me.

“Tom Manzi and I, in my estimation, have been removed, strictly speaking, for political reasons, because of our outspoken opposition to the way, the manner, and the actuality of the connector road associated with the police station. I don’t think there’s any question in anybody’s mind about that; there are going to be. I am going to [the] Freedom of Information Act, because it is alleged that there are emails complaining about me. And Mr. Fiorentino, rookie of the year in his own mind, decided that I was monopolizing the Board, here. In my estimation, the Board of Selectmen is a weak board that is designed to be weak because it is a Town Manager-run system. But they have really gone too far in exceeding to him. I think this entire process of building the road is a comedy of errors in which the Board of Selectmen [delegated] to the Town Manager, who delegated to the Building Committee, who delegated to SMRT, who delegated to Gorrill Palmer—and nobody ever asked for a comparative safety analysis of the two things.

“Back in history, people made the mistake of giving the Selectmen the power to buy land without asking the people for validation for that. So they bought a pig in a poke, namely

the Blinn land. Its assessed value was \$700,000, and they paid a million bucks for it. Any time anyone wants to give me a premium of 33%-plus over my assessed value, I might consider selling my house, as much as I enjoy living there. But, be that as it may, there is no safety analysis being done out there, and the whole thing is the cart before the horse.

“And, as I’ve said, Todd, what he admitted to me, see, sometimes I do my homework, came up with the idea that is very obvious. That road is no longer a retrograde arterial. There are far too many entrances and exits on it. And testimony will be given. The Board of Selectmen will be taking this up on the 9th, and you will be judging it on the 12<sup>th</sup>. And I will be at both of those meetings telling you what I think you ought to do, what they ought to do, and what you ought to do. You know what it is. You got to have the comparative safety analysis at the two things, because the only thing that matters is public safety.

“And to be a sacrificial lamb—it won’t be the first time that I’ve been the lightning rod for negativity. The development world is going to love it that I am no longer on this board. And I really have to trust you guys to pick up the action and become more familiar with the codes, and beat them up the way that I do. You’re representing the public interest, and the public interest is not contained in your mind, your opinions, your history, or anything else. It is contained in these four books: the Zoning Ordinance; the Site Plan Regulations; the Comp Plan; and the Planning and Land Use Laws. You ought to be as familiar with these things as I am. And that means you’ve got a lot of studying to do, and you should always have it with you and should be referring to it constantly. If you have any ambiguity about anything, halt what you are doing and get into the code. That is the only way you are going to prevent the opportunist from gaming the system. And that’s what they want to do. I don’t blame them. That’s the American way. That’s why we exist, is to put a halt and a limit on the amount of opportunistic gaming that can take place in the public interest.

“And, new Chairman Fredrick, I think you are going to be a great chairman, if you continue to do your homework. And remember, every once in a while you want to say, “What would Torbert do, here?” It won’t hurt you to do anything. And David, I would love it if you would back off your advocacy for business, just a little bit. I think a lot of it is positive, but sometimes I think you beat it to death. You’ve got to remember that business in general is in the public interest, and everyone wants to promote. But, you don’t cut them any slack any more than you cut any body else any slack. Let them do the right thing, and they’ll prosper. And we’ll all prosper.

“And Mr. Glazebrook, you’re going to be an excellent member. I have no doubt. I’ve enjoyed my brief time in knowing you, and I hope to get to know you over time. And again, you’ve got to hit the books just as if the commanding officer is going to come around and give you white-glove inspection. Because I know you owe that to the public, and as you’ve served them well in the past.”

[He wished the Town Planner well with her fellowship.]

Chairman Lew Stowe then said to Torbert, “I sincerely, personally appreciate your involvement. You add so much value to the process. Ninety-nine percent of your involvement is so positive.”

Torbert answered, “Everybody’s got 1% or 5% that nobody likes. That’s how I know I’m doing a good job. I have pissed off at least one of you in a mighty fashion. And I know I’ve done a great job if I pissed you all off in a fashion. And then you’ve got some time to think about it. You think back on some of the fiascos we’ve been through together. We’ve also been through some really good planning work on the Green Development. I consider myself an extension of this board. I did before. Before I came on the Planning Board the first time, I was a de facto member in terms of my chairmanship of the Conservation Commission.

“I hope you will continue to extend and meet with the Conservation people, because we all live on Mother Earth. They are the first guardians we have, the first responders. They need help. They don’t know their way around the regulations [as] you may, but their hearts are in the right place, and you want to find a way to bring them in. Really the thing that we are trying to evolve toward is, at the sketch review level, get out on the land and find out what the land is, so that Chapter 6 of the Site Plan, which demands that the project be conceived in terms of the nature of the land. You don’t need to re-invent it. It’s already right there. And you’ll do well. It’s not over. It’s just a new phase.”

Torbert Macdonald ended his speech and left. This was transcribed from the electronic media by the minutes secretary.

**Outgoing Chairman Lew Stowe** talked about the upcoming transition with Tom Prince, Tom Manzi, and Torbert Macdonald all leaving the Planning Board at the same time. It is a hardship losing three members. The dynamics change. Tom Prince has offered to come back and fill a void, if it is necessary. Lew mentioned the Board’s success with the Green Enterprise zone of York Village, the Sea Rise Project work going on with Steve Burns, and other activities, like Todd Frederick’s work on the Charter Commission. The Planning Board is all about project review and new ordinances that the Board of Selectmen direct. The new ordinances require forward planning. To be successful, this has to be a good team, said Lew.

Todd Frederick’s load is about to double, as chairman. The chairman guides the process, schedules the work, and goes through the Findings of Fact. The Board’s work is divided into 50% project review, and 50% ordinance development. We need to speed up the process. Applications that are now taking six to eight months should be done in three to four months. Lew Stowe said he was not sure how the Board will do without Torbert Macdonald’s knowledge of conservation, and he hopes another member will take up the challenge. There are pressures on new members. They will have to be trained. He suggested setting up training sessions to ensure they have knowledge of the ordinances.

Dave Woods said he didn't understand why Torbert and Tom Manzi were asked to leave the Board. Personally, he was polarized and opposed to Torbert, whom he said was a good guy after all. He thought he and Torbert balance each other out, most of the time. He thought of writing a letter or making a phone call on Torbert's behalf. He would not be opposed to writing a letter signed by all.

Todd Frederick wondered, "Where do we go from here?" The Board of Selectmen has the ability to remove people from the Planning Board. The postings for Planning Board positions will go onto the Town website quickly. The Board needs a strong consensus about where the Town should go. The Board usually votes unanimously. Members have to be thick-skinned.

Dave Glazebrook said a planned process would be helpful. He had chaired neighborhood councils in Iraq and was a de facto mayor for a city of 400,000. He had to deal with corruption. Things worked out eventually. His process extended toward just getting things done, and his focus was to hand his experience and knowledge over to the next person. Isn't that what we are trying to do here? It would be good to have past people sit down and explain things, to help him learn the system.

Todd Frederick said it took a year before he could be comfortable and feel like a cog in the gears.

Lew Stowe spoke about Tom Manzi, who was also leaving the Board. Lew had worked with Tom in Town matters for about ten years, beginning on Comp Plan 10B. Lew said Tom had wanted to leave the Board to concentrate on his band, anyway, and Lew had encouraged Tom to stay. He planned to invite him to visit the Planning Board in July, so the Board can show their appreciation.

## **Old Business**

### **Other Business/Adjourn**

The DEP report is expected to arrive tomorrow, Friday, June 29. As soon as she gets it, Christine Grimando will forward it to the Board. There will not be a project review. Questions can be asked, but it is not a public hearing. It is not posted as an agenda item. If it is all lined up correctly, the Mylar can be signed on the 5th.

Workshop dates have changed. The July workshop will be on the 19<sup>th</sup> at the Senior Center. Goals for the coming year will be discussed.

She will be away on her fellowship for both meetings in September and one in October. Steve Burns will be carrying those meetings. There is only one meeting in August, on the 9<sup>th</sup>.

The meeting closed at 10:10.