

**York Planning Board  
Agenda  
Thursday, September 14, 2006, 7:00 PM  
York Public Library**

**Executive Session with Town Attorney**

Only the Board and the Attorney were present for the Executive Session.

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

Chairman Glen MacWilliams began the meeting at 7:08 by introducing the Planning Board and staff. There was a quorum. Glen MacWilliams, Vice Chairman Tom Manzi, Barrie Munro, Richard Smith, and alternate Lee Corbin were present. Glenn Farrell was absent. Lee Corbin was asked to vote in Glenn Farrell's place. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting was televised.

**Public Input**

**Open to the public to address any issue other than the scheduled public hearings.**

Ron Nowell, of Cape Neddick, said that the policy to extend the Growth Area west of Route 1 is a mistake. No Comprehensive Plan has ever proposed that before, he said. That land is too bony or too swampy for sewer or water. Secondly, the idea of putting more business on Route 1 without it having a turnout lane will cause more fatal accidents like the one a couple of weeks ago. He also described the flooding in the Baldwin Subdivision during last May's flood.

The Chair closed Public Input.

**Field Changes**

David Ranta spoke on behalf of the **Sanford Institution for Savings**. The DOT has decided where the sidewalks should go along Routes 91 and 1, so the applicant is ready to landscape. He showed a plan of how plantings have been adjusted to fit the sidewalk plan. A large pine tree is being taken down for the turning lane. Chairman Glen MacWilliams opened and closed the **Public Hearing**. No one came forward to speak.

**Motion** Barrie Munro moved to approve the changes to the plan presented by David Ranta and as contained in the plan. Tom Manzi seconded the motion, which passed, 5-0.

Steve Burns asked that the plans be given to Town Engineer John Treat, as well.

**York Storage Solutions** also proposed Field Changes. They had been moved up from further down on the agenda because their matter had become simplified. York Storage Solutions and abutter Rick Knight had agreed to the location of Storage Solution's well, said Ben Walden of Attar Engineering. The new location of the well will not affect abutter Rick Knight's ability to put in a wastewater facility.

The Chair opened and closed the **Public Hearing**. No one came forward to speak.

**Motion** Barrie Munro moved to approve the revised plan of September 14, 2006 as presented and discussed. Lee Corbin seconded the motion, which passed 5-0.

Ben Walden then told the board about a propane tank that also had been added as a field change. Located between the dumpster and the office building, the 1,000 gallon subsurface tank does not need DEP approval, he said.

**Motion** Barrie Munro moved to amend the first motion to include the location of the propane tank. Tom Manzi seconded the motion, which passed, 5-0.

Ben Walden asked for one more field change, but was told to come back with it.

## **Minutes**

### **Review and approve draft minutes**

- The June 29, 2006 Minutes were reviewed.

**Motion** Barrie Munro moved to accept the June 29 Minutes, as written. Tom Manzi seconded the motion, which passed, 5-0.

- The July 13, 2006 Minutes were reviewed.

**Motion** Barrie Munro moved to accept the July 13 Minutes as written. Tom Manzi seconded the motion, which passed, 5-0.

- The August 10, 2006 Minutes were reviewed. Glen MacWilliams pointed out a grammatical oversight that had to be fixed.

**Motion** Barrie Munro moved to accept the August 10 Minutes as amended. Tom Manzi seconded the motion, which passed, 5-0.

- The August 21, 2006 Minutes (Notes from a Site Walk) were reviewed.

**Motion** Barrie Munro moved to accept the August 21 Minutes as written. Tom Manzi seconded the motion, which passed, 5-0.

- The August 24, 2006 Minutes were reviewed.

**Motion** Barrie Munro moved to accept the minutes as written. Tom Manzi seconded the motion, which passed, 5-0.

## **Application Reviews**

### **Jefferd's Tavern—First Parish Church & Old York Historic Society. 3 Lindsay Road. Map & Lot 109-031. Conceptual review of new education facility.**

Barrie Munro recused himself from the hearing, as his wife is a member of the Old York Historical Society. Scott Stevens, Executive Director of Old York Historical Society, talked about the Society's need for exhibition and classroom space for the collections. In November, 2004, a site plan had been presented concerning new construction for exhibition space. But since then, the Society has been offered an 1830 barn to move from Eliot. They are \$2.4 million toward collecting the needed \$2.8 million for moving and restoring the exhibition barn.

The parking lot design for the site has been changed since 2004. It will have one-way traffic with an exit at one end. He showed an elevation of the new building, which is 38x60 feet with a hyphen connecting it to Jefferd's Tavern. Clapboard siding will face the street, and shingles will cover both ends of the building. Existing growth will assist in screening the building. He described moving the Vietnam Memorial to accommodate the new building.

Tom Manzi asked if the new building could be used as greatly needed performance space. Scott Stevens said that it could be used for theatrical, musical, or community meeting space. The upstairs gallery space is for the local collection, which is one of the best anywhere, he said. The land is owned by First Parish Church, and they have an interest in having more parking. Steve Burns said that the abutter across the street is concerned about the traffic coming out, aiming right at her house.

Chairman Glen MacWilliams opened the **Public Hearing**. **Kinley Gregg**, the abutter across the street, said that if someone accelerated uncontrollably from the exit, they would end up in her dog's bedroom. She asked the Board to take into consideration that with most of Old York's programs oriented toward school children that arrive on buses, 60 spaces seem to be too much parking.

**Richard Cutts** lives at 12 Lindsay Road, across from the burying ground. He spoke about conservation of the large trees, especially sugar maples. He proposed designing the parking lot around an existing clearing, avoiding the large trees. Trees in the area would hide the parking lot and hide the lighting. Since the current traffic flow sometimes encourages people to drive the wrong way up Lindsay road to get into the parking lot, reversing the arrows would better control which way they go. As is it, there is no indica-

tion for bus parking. For the sake of the sugar maples, salt should not be used in the parking lot.

**Ron Nowell** spoke enthusiastically about the relocation of the Vietnam Memorial, currently in a poor location with mud and trash accumulating around it, in its sunken spot. The new location will add dignity to the memorial and make it for better appreciating.

The conceptual review for the Jefferd's Tavern addition was given a nod by the Board.

**Sharon and Edgar Kettles. 15 Greenacre Drive. Map & Lot: 0059-0012-P. Minor amendment to an approved subdivision plan—to reflect setbacks changed several years ago by the Town**

Steve Burns described this as the easiest application of the year. The applicants were applying for approval of an updated subdivision plan reflecting zone boundaries and setback changes. The request did not require very much discussion.

**Motion** Barrie Munro moved to approve the plan changes without conditions. Tom Manzi seconded the motion, which passed, 5-0.

The Planning Board signed the mylars before the meeting continued.

**York Storage Solutions—Arenhall Corp. 1950 U.S. Route One. Map & Lot: 0100-0029. Application to amend the Route One Use Permit to re-locate the well.**

This matter was handled earlier, during the **Field Changes** portion of the meeting.

**Highland Farm Phase 2. 1 North Meadow Lane, and 250 Cider Hill Road. Map & Lot 0090-0029-A and 0090-0030. Application for major subdivision. Consideration of conceptual or preliminary review.**

Steve Burns said the §6.3.3.A.4 requirement to locate all trees of 24" or larger caliper on the plan was important for the Board at this meeting, as well as focusing on application completeness. He added that letters had been received from Kittery and York Water Districts, but they had not been reviewed. Engineer Steve Haight briefly acknowledged application acceptance as the applicant's priority.

The Chair opened the **Public Hearing**.

**David Tibbetts** of the **York Conservation Commission** said that he had gone on the site walk with the Planning Board. His concern is for habitat on the property. The spotted turtle have been spotted there, but it was not documented, and an effort should be made to do so. The property is rife with basswood, ash, and hickory, all of which are rare in Maine. A rabbit, perhaps the New England Cottontail, has been seen on the property. That also has to be documented.

**Sharon England** said that there is new legislation about vernal pools, an important part of the purification of water as it passes into the ground. Some excavation will go deeper than the depths of the vernal pools. She is also concerned about blasting and her well. She described lowered water pressure in local homes after other blasting occurred. Tom Manzi asked that she find out more from neighbors about lowered water pressure after blasting. The Public Hearing was closed.

Applicant Attorney **Jim Katsiaticas** briefly stated that completeness is the issue of the meeting.

The Public Hearing was closed.

**Motion** Barrie Munro moved the application as complete for purposes of review. Richard Smith seconded the motion.

In discussion, Glen MacWilliams said that 6.3.3.A.4 is a showstopper, with the applicant unwilling to submit the specifics about the trees larger than 24" in diameter and the issue part of the overall environmental concern. Not knowing where the road is going to be prevents a conditional approval. Steve Haight replied that the GPS shows there are 25 trees that are 24" in diameter in the way of the proposed road. Glen MacWilliams replied that the critical issue is the habitat on the site. Barrie Munro said that the matter must not be dragged out from the legal perspective, and he asked to move the vote.

**Vote** The motion to accept the application as complete passed, 3-2. Glen MacWilliams and Tom Manzi voted against.

Glen MacWilliams said that during the executive session, the town attorney advised the Board to accept development as long as it is outside the Watershed Overlay Zone. Any development that occurs in the Watershed Zone must occur on a ten-acre or greater lot within the Watershed Zone. However, development outside the Watershed Zone does not require three net buildable acres outside the Watershed Zone, since the underlying zone encompasses the Watershed Zone. Any development that occurs on a lot that is split by the Watershed Zone and the underlying zone must not take place in the Watershed Zone. Building envelopes will be needed to assure that this requirement is honored. In addition, deed covenants must clearly describe what is permitted and what is not. The interpretation matched the applicant's interpretation.

The Board discussed the §6.3.3.A.4 waiver request.

**Motion** Barrie Munro moved to deny the request for the waiver as currently submitted. Instead, the applicant will identify trees that are 24" in diameter 100 feet on each side of the center of the right of way. Tom Manzi seconded the motion.

Glen MacWilliams made the **friendly amendment** to require this tree identification wherever the right of way might end up. The friendly amendment was accepted. **The vote passed, 5-0.**

Tom Manzi said that some of the lots look like flag lots. He requested dimensions to prove they are not. Richard Smith asked whether or not Town Water is going into the development or not. Steve Haight replied that that information still is not available.

There was nothing more to discuss at that time.

**TAGT, LLC. 360 U.S. Route One. Map & Lot: 0053-0009-B. Application for a Route One Use Permit to expand building and add second building.**

The dead plantings on the TAGT property had been an issue at the last hearing. Barrie Munro opened by asking when the “dead stuff” will be replaced, and was told that it is already done. Barrie Munro thanked the applicant.

The **Public Hearing** was opened and closed. No one came forward to speak.

Using a plan to demonstrate his intentions, Landscape Architect Terrance Parker went over the guidelines for the buffer yards on the TAGT property. He said that the plan meets the zoning requirements.

**Motion** Richard Smith moved to accept the Anderson Livingston August 30, 2006 plan and the September 6, 2006 landscape plan by Terrance Parker. Lee Corbin seconded the motion.

In discussion, Steve Burns said that the Town Engineer does not have to go to the site, if the plan is certified, though department signoffs and drainage plan approval are still necessary.

**Vote** The motion passed, 5-0.

## **New Business**

**Public Hearing: Proposed amendment to the Site Plan & Subdivision Regulations regarding the issue of landform alteration (draft dated 8/25/06)**

The Chair opened and closed the **Public Hearing**. There was no one in attendance.

Glen MacWilliams summarized the intention of the amendment was to understand and preserve landforms and vegetation through their alteration. He asked the Board for suggestions for changing the Amendment. In §7.3.1, Barrie Munro suggested adding the following changes in italics: “development site for *changes including but not limited to*

foundations (other than building *foundations*, driveways, septic systems, drainage systems, and roads).”

**Motion** Barrie Munro moved to adopt the Preservation of Landform Amendment §7.3.1, dated August 25, 2006, with the addition of “changes including but not limited to” and the word “foundations” to the language. Lee Corbin seconded the motion, which passed 4-1, with Richard Smith opposed.

**Preference Votes: recommendation for each Ordinance and Comp Plan amendment.**

Chairman Glen MacWilliams read through the list of **16 Ordinance items**, which had originally 17 items. The Selectmen had removed No. 16, Workforce Housing from the list. He asked for discussion, but there was none.

**Motion** Barrie Munro moved to approve Items 1-15 and Item 17 as a “yes” for a preference vote. Richard Smith seconded the motion, which passed, 5-0.

The Chair read through the names of Items 1-14 of the **Comp Plan Amendments** and asked for discussion. Barrie Munro brought up about Growth Policy, which had been discussed up by Ron Nowell during the Public Input session at the beginning of the meeting. Steve Burns said that the belief that the Comp Plan omits areas west of Route 1 as part of the Growth Zone is incorrect. Hannaford, banks, business, and gas stations west of Route 1 are part of the Zone. The Growth Zone goes all the way to the Turnpike, he clarified.

Richard Smith asked to leave out Item 5, Net Buildable Lot Size Standards, from the comprehensive vote, so it could be treated separately.

**Motion** Barrie Munro moved to approve Items 1-4 and Items 6-14 with a “yes” for a preference vote. Tom Manzi seconded the motion, which passed 5-0.

**Motion** Barrie Munro moved to approve Item 5 with a “yes” for a preference vote. Tom Manzi seconded the motion, which passed, 4-1. Richard Smith voted against the preference vote.

**Other Business/Adjourn**

Steve Burns said that he followed-up on last spring’s project where photos gave evidence of code violations up and down Route 1. He had written up two of the violations for a Planning Board’s cover letter to Code Enforcement. The Board could “be the heavies.” Richard Smith said that he did not think the board should be engaged in bring out violations. Barrie Munro argued that the Board is responsible for the development of Route 1. The violations are not grandfathered.

**Motion** Barrie Munro moved that the Planning Board forward Steve Burns's Memorandum regarding violations to the CEO. Tom Manzi seconded the motion.

In discussion, Lee Corbin said that the violations are nonconforming, yet they have been there for some time, and that the board is engaged in retroactive legislation. Barrie Munro said that violators were given years to come into compliance.

Glen MacWilliams offered **Friendly Amendment** to put other violations on an extended list identifying other sites and probable issues. Barrie Munro accepted it.

**Vote** The motion passed, 3-2, with Lee Corbin and Richard Smith opposed.

**In other business**, Steve Burns explained **Elks Lodge 2788** had emailed a memo to him on September 5, 2006, about the vegetative restoration of their denuded property. They plan to sue the people who cut down the trees and make them pay for the restoration at the cost of about \$100 thousand. The Elks cannot take action on the property until the mechanism to complete that work is complete.

In other business, **Quentin Keefe** wrote a letter to Chairman Glen MacWilliams about the lot line adjustment proposed by Bill and Donna Shallow. The board briefly discussed the Board's possible liability and/or possible approval of the lot line change at the next meeting. Glen MacWilliams said that the developer has to produce what the board asked for at the last meeting, the As Built, before anything moves ahead.

**Motion** Barrie Munro moved to send a letter to the developer asking for the As Built. If the developer cannot produce it, he will be in default. Tom Manzi seconded the motion, which passed 5-0.

The meeting adjourned at 10:40.

Barrie—What is Scott Stevens's role at OYHS? Job title.