

York Planning Board
Thursday, December 10, 2009, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Planning Board Chairman Tom Manzi introduced the board members and determined presence of quorum. Tom Manzi, Vice Chairman Lew Stowe, Dave Woods, Todd Frederick, and alternate Torbert Macdonald was present. Alternate Tom Prince was absent. Torbert Macdonald was asked to vote with respect to the vacant board seat. Town Planner Christine Grimando represented Town Planning staff. Patience Horton took Minutes. This application meeting lasted three-and-a-half hours and was televised. Agenda item **Ruby's Wood Grill** had been postponed.

Public Input

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

Cardinal DiBiase of 25 Nicole Road in York Beach said there are problems with the drainage easement at the back of his property. In 1976, Cardinal DiBiase put the drainage swale in on his property as required. Now the swales in the area are overgrown and have not been maintained. Clearing the area would cost \$23,000, but only 20 out of 33 property owners are willing to help, and they will not let anyone on their property to do it. They want to blow the drainpipes out. There are five lengths of pipe leading to Church Street Extension.

Cardinal DiBiase has water pouring into his cellar. One neighbor's is completely under water. Town Planner Christine Grimando said there was no homeowners association at the time. The subdivision plan had little specification for drainage requirements. Code Enforcement says there is a 10-foot ditch on the original plan, and any other improvement can't be forced. Cardinal DiBiase said he does not want to rip any pipe out. He wants to fix the swales. He would like to leave it the way it is, and he will clean it out.

Dave Woods wanted to look at it as an Easement of Prescription, with the help of the Town Attorney. Tom Manzi wanted to hear it as an actual application. Christine Grimando said, for clarification, following the plan and the design should be most useful. The petitioner would not have to come before the board, if it is kept the way it is.

Field Changes

There were no field changes.

Minutes

Review and approval of draft minutes for November 5 and November 15, 2009

There were minor changes to both sets of minutes requested by Lew Stowe and Torbert MacDonald, which were given to the secretary for revision.

Motion: Todd Frederick moved to accept the **November 5, 2009** minutes as amended. Dave Woods seconded the motion, which passed, 5-0.

Motion: Lew Stowe moved to accept the **November 15, 2009** minutes as amended. Dave Woods seconded the motion, which passed, 5-0.

Application Reviews and Public Hearings

Vice Chairman Lew Stowe made several qualifications about the meeting. The order of the hearings will be applicant presentation, public hearing, and then Board discussion. Also, the Planning Board meeting will end at 10:30. As well, he asked for participants to speak to the chairman and not directly to each other, as a matter of civil behavior.

Yorke Fields 590 US Route 1. Map & Lot: 0042/0008. Request for Extension of Preliminary Review Approval of a major Site Plan

Attorney Greg Orso spoke for Yorke Fields, requesting an extension for preliminary plan approval. The funds for the highway project have been approved. Applicant engineers are discussing the ingress and egress traffic issues with MDOT and consultant Bill Bray. Right-turn-in/right-turn-out and left-turn-in are the original options.

Town Planner Christine Grimando said there is no problem granting the request for six additional months. Requests for significant changes should not be made or reflected in the Findings at this time. If Findings of Fact are not final or signed, or are at a preliminary level, they have no binding decision, said Gregg Orso.

Motion: Todd Frederick moved to grant the extension for a period of six months for the Approval of the Preliminary Plan for this application. Lew Stowe seconded the motion, which passed 4-0. Torbert Macdonald did not vote, as he had not been party to the preceding application hearings.

The **Public Hearing** for Yorke Fields was opened and closed. No one came forward to speak. The Yorke Fields hearing ended.

Coburn Foundation Replacement. 11 Spruce Street. Map & Lot: 0032-0014-W. Review of an application to replace a foundation in the Shoreland Zone

Christine Grimando said the Foundation Replacement Application is a new procedure for the Planning Board. It regulates non-conforming structures in the Shoreland zone. The applicant cannot have an expansion.

Owner Richard Coburn, of West Hartford, introduced himself and builder Robert Ellis, who said the Spruce Street house would be torn down and replaced allowing for change in dimension, but have the same volume. One deck will be eliminated, while another will be slightly enlarged. Dave Woods noted the front setback away from the road is being improved, and the setback away from the wetland is also improved.

The Chairman opened the **Public Hearing**. Abutter **Michael O'Neil** asked the Board to encourage Richard O'Neil and Janet O'Neil to improve the property. The Public Hearing was closed.

Motion: Torbert Macdonald moved we approve the enlarged nonconforming foundation for 11 Spruce Street, Map & Lot 0032-0014-V, which foundation is to be 20 x 32 feet with the proposed deck of 15 x 12 feet. Notes 13 (approval of this application does not constitute an approval for expansion of the principal structure), and 14 (maximum building volume or gross floor area shall not exceed the total volume of the existing structure) should be incorporate into the approval. This does not constitute an approval of an expanding structure. Todd Frederick seconded the motion, which passed 5-0.

In discussion, Torbert Macdonald said the building's proximity to the wetland would not make it buildable as new today. Bob Ellis said the road has been re-graded, and Richard O'Neil said the water comes down Hemlock Avenue and goes in front of, and not onto, the applicant property. The hearing ended.

BAS Eldredge, LLC. 97 Raydon Road. Map & Lot 0091-0008-V Continued Preliminary Site Plan Review/Route 1 Use Permit for a commercial showroom and storage space.

Christine Grimando said the application was found Complete for Purposes of Review in a prior hearing. Unresolved issues include sprinkler, peer review, hydrants, sight distances, delivery hours, rights of way, and other items. She recommended the Board approve the application for Preliminary Review this evening.

Engineer Geoff Aleva summarized recent activity. Pavement design has since been adjusted for right turns only from the right lane. The landscaping buffer has changed to arborvitaes. The shed will have wood siding and asphalt shingles. Staggered hours of operation have been established. The sound study proves the sounds from the designated property do not to exceed York Noise Ordinance.

Geoff Aleva responded to Christine Grimando's current memo. The old driveway will not be used. The new truck turnaround has been accepted. The Water District is calculating water service to the sprinklers. The peer review has recommended minor changes. Sight distances and operation hours are set.

The sound technician, seismologist, has taken readings from the forklift and other sounds. They are within the limits established to the Town of York sound ordinance. Abutter Art Fossa was present for the sound study. Thirty-seven arborvitaes will run along the property line. There may be wood cutting operations at that site, but that will not be the primary use.

The Chairman opened the **Public Hearing**. **Dominic Bressi** said there is septic tank on the property. It should be examined before impervious material goes over it. Trucks waiting to deliver to this property can park at the Kennebunk rest area, or some other area

nearby. He does not want to hear idling at 3:00 A.M. There is “stuff” dumped at Ace Storage he does not want to look at that any more.

Sharon Decato of 47 Donica Road said where there were trees buffering the noise, there is now a parking lot. There has to be additional fencing or trees between her house and that parking lot. She wants to know what vehicles will use the parking lot—cars, trucks, and/or dumpsters? She lives closer to the lumber storage property than anyone else. She can hear every forklift and truck delivery. She has a log of observations and pictures of the deliveries. Forklifts should be prohibited in the area right by her house.

She does not want a guard dog there, like the one at Eldredge Lumber on Route 1, she said. Also, there should be a gate to deter trucks. The vendors have to be told what delivery times are acceptable. The lumber storage racks should be wooden, not metal. It is not reasonable to cut lumber there. That is a different use than wood storage. This application has drastically reduced the value of her home, said **Sharon Decato**. She was had to change her life plans because of it. Zoning should not allow commercial and residential property to abut.

Art Fossa of 43 Donica Road was in on the sound study. Several measurements in several locations were read, including the delivery, forklift, and Route 1 areas. Early mornings “quiet” was compared to later forklift noise, ranging from 6:20 to 8:15 in the morning. There are no restrictions for backup beeping alarms by either Town or OSHA standards. Sawing and cutting were not discussed or measured during the sound study.

Charles C. Black, II, spends about 40 to 50 hours a week overseeing this annex. He grew up in York. Eldredge is a single-store facility that cannot compete with the big box stores when it comes to dictating delivery schedules. Eldredge has to take deliveries when the drivers can work them in.

At 6:30 on Tuesdays and Wednesdays, one driver consistently delivers to Eldredge. Another driver, who had come at 5:00 or 5:30, now knows the situation and comes later. Trucks do not go up Donica Road. Dumpsters are not dropped day and night—there have been no dumpsters for a year. Lumber is not dumped there. During the noise study, a driver, who did not know about the study, demonstrated successful noise levels. The message about noise is getting through to drivers, said **Charles Black**.

There has never been a guard dog, he added. There were two Eldredge family pets, then one, who barked out of loneliness for the other. Then there were no dogs, and there will not be any dog on this property.

The **Public Hearing** ended. Applicant Geoff Aleva responded to the speakers. The once-used driveway on Donica Road will be used no more. It will be reclaimed and seeded. The sight distances are accurate and based on a passenger vehicle. Donica Road is a third road and is not included in the sight distance calculation.

The location of the septic is currently uncertain. The lean-to storage building has a metal frame, wood siding, and asphalt shingles. A rendering will be provided to the Board. There is no lumber manufacturing or milling here. The concentration is on Engineered Lumber. There may be sporadic cutting of the Engineered Lumber with a Skilsaw. The upper parking lot is inside the buffer. It is landscaped and has no proposed lighting.

Eldredge Lumber is in compliance with Code Enforcement, and there are no outstanding code issues. The lights above the doorway entrance will be shielded. There will be no lighting in the parking lot. The hours of operations are 7:00 to 5:00, or 6:30 to 5:00 for deliveries. Windows and doors will be unloaded early in the morning without use of a forklift. Currently there are 15 to 20 trucks daily, some of which are box trucks and others are tractor-trailers.

Lew Stowe asked if additional trucks, especially tractor-trailers, would be delivering engineered lumber when the facility is open. Dave Woods asked if dock cushions would be used as additional noise inhibitors. Geoff Aleva said he would look in to that.

Todd Frederick asked how the hours of operation would be enforced. Applicant Dan Remick said having truck delivery after 6:30 A.M. is not against the ordinance. Torbert Macdonald asked about Cardinal Bressi's rest stop idea, Dan Remick said he did not know exactly when trucks are coming. Lew Stowe asked about Sunday hours. The complex would close at 5:30. Christine Grimando stressed there is to be no retail activity in the showroom. Dan Remick replied there would be no cash register there. Dumpsters? Material will be brought into the building for refuse, he replied.

Lew Stowe said he is in favor of a gate. He requested a rendering of the building and storage area. Geoff Aleva said the cross section on C-3 of the plan shows the general area, building, trees, proposed trees, and cross section fully back to the abutting property. Lew Stowe said the elevation illustrating the solid wall of arborvitaes would be helpful to the abutters. Geoff Aleva said it will be done.

Torbert Macdonald said the fence should be reconsidered. Vegetation does not stop children, fences do. Fences are barriers and contain noise. A 12-foot stockade fence would help. Section 7.17.2, site design, eliminates the possibility of noise pollution from highway or industrial properties. Thirty-seven arborvitaes have been added, but a small forest has been removed. Adding a fence behind the arborvitaes would stop children from trespassing. There was an arbitrary vote disallowing addition of any fence to the design at the last hearing, Torbert MacDonald said. He asked to have that motion reconsidered.

Dave Woods referred to the stockade fence in front of the Goodrich property. It has been damaged and lost to winter storms. Geoff Aleva said the abutters prefer the arborvitaes to the fence. The building next to the trees is wood-faced. Torbert Macdonald asked, why not go with a wooden stockade fence?

The meeting became disorderly momentarily. Discussion about trees and fences ensued between the Abutters and the Applicants.

Torbert Macdonald proposed extending stockade fence out further from the storage shed reaching to the property line. Geoff Aleva said his client does not want a fence there. Buffering should go there. Dave Woods said the area is about 120 feet, a substantial distance. Chairman Tom Manzi said the fence discussion should be carried to the next meeting.

Motion: Lew Stowe moved we give Preliminary Plan Approval as submitted with the information and open items stated during the meeting. Todd Frederick seconded the motion.

In Discussion, Torbert Macdonald said the open items include security for the facility and noise abatement.

Vote: The motion passed, 5-0.

Ruby's Wood Grill 433 US Route 1. Map & Lot 0054-0010-A. Review of a Route 1 Use Permit and Amendment to a Previously Approved Plan.

The application was postponed.

New Business

- **Meeting hours footer for Planning Board Agendas**

Todd Frederick presented this item. Per Planning Board Bylaws, meetings are to be adjourned at 10:30, unless there is a vote to extend it. The language to that extent should be included on the meeting agenda to enforce Planning Board time management and deliberate meeting action, he said. Town Planner Christine Grimando said that, if strict adherence forces agenda items to roll over, there would be deadline issues.

Motion: Todd Frederick moved to add language from Article 4.2.3 of the York Planning Board Bylaws to the footer of the agenda. Dave Woods seconded the motion, which passed, 5-0.

Old Business

There was no other business.

Other Business/Adjourn

- The signing of the Sparhawk Field Change Mylar was postponed.

The meeting adjourned at 10:31