

York Planning Board
Thursday, November 12, 2015, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence 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 Pete Smith; Vice Chairman Amy Phalon, Esq.; Lew Stowe; Gordon Eldridge, representing York Beach; and Al Cotton. Alternates Kathleen Kluger and Wayne Boardman were present, but did not vote. Assistant Planner Scott Hastings and Director of Planning Dylan Smith represented staff. Patience Horton took Minutes.

Public Forum

No one came forward to speak.

Minutes The October 22, 2015 minutes were reviewed. Changes were requested.

- **Motion:** Al Cotton moved that we accept the minutes as amended. Lew Stowe seconded. The motion passed 5-0.

Field Changes There were no field changes

Public Hearing on Zoning Ordinance Change

Includes a building-height special exception provision for Municipal school buildings

Application Reviews and Public Hearings

Director of Planning Dylan Smith said that staff-written Draft Amendment #1, the Municipal School Buildings Height Exception, that is being proposed tonight, is based on the motion the Planning Board made on October 22, 2015. That motion set parameters around a 50-foot height limit on a municipal use, within the growth area. For this draft, Dylan matched the verbiage from that original motion to what is currently located in this Draft 5.1.5.1, Height and Setback Exception, specifically Letter b, utilizing b.2 and b.3. The proposed draft ordinance follows.

Ballot Language: The following language would appear on the ballot.

Amendment:

Amend section 5.1.5.1 Height Exception letter (b.) by adding number 4 to read as follows:

4. Municipal School Buildings. The maximum building height of a municipal school building may be increased to 45 feet, provided the applicant demonstrates that the design results in a building that is in scale with the surrounding neighborhood after considering the size of the site and location of surrounding lots.

The Chairman opened the **Public Hearing**.

Mike Whitman is a resident of York and Chairman of the Building Committee. He asked the board to vote for the amendment as posted. The auditorium is important to the community. The voters favored the 750 seat auditorium in a 60/40 split. The height is acceptable because the York High School is on a 67 acre wooded site and is over 550 feet from the nearest house. That distance is through the woods, not an open area.

Barbara Campbell asked the board to uphold GEN-3 zoning. This allowance is a mistake that should be corrected, she said. As a resident and as a voter, she told the Planning Board to follow the Town of York's zoning ordinance.

Jim Bartlett wants to have the proposed ordinance change sent to the Board of Selectmen. He gave examples of other ordinances that allow heights over 35 feet, including the hospital (60 feet) and certain buildings in York Beach Village. He said that not allowing a 45 foot height exception for this auditorium is wrong and outside the structure or philosophy of the ordinances.

Helen Rollins said that just because the hospital ordinance allows 60 feet, it doesn't mean it is the right thing to do. She wants to keep building height at the 35-foot "human scale." The Board must not allow all municipal school buildings to have 45-foot height exceptions. "If you are going to give an exception, do it only for this school. Don't make it for the broad base of all municipal buildings," she said.

Dwight Bardwell is the Chairman of the School Committee. When this issue came up, the School Committee had the choice of redesigning the auditorium or going to the Planning Board and the Board of Selection for a height variance. Even with an understanding of the restrictions, the School Committee is before you because it knows what is best for community.

Julie Enamen is a member of the School Committee and the Building Committee. The curtain at the high school cannot go up because there is no fly gallery for it to go into. The space is not functional. The amendment must go before the Selectmen, because without the gallery, it is not a proper stage for the students or community.

Charlie Stedman, Chairman of the Budget Committee, supports this amendment. The Budget Committee gave a lot of consideration to the auditorium, which is currently ancient and dysfunctional. The theater will be used by school drama groups, but civic theater as well.

Seth Rankin is member of the Budget Committee and the Capital Committee for the Auditorium, making him familiar with the issues that were addressed. This is the best solution to put this Amendment #1 before the voters, he said.

Eeben Rankin plays tenor sax in the 7th Grade Band. When he gets to the high school, the auditorium should be built by to the new design, he said. If the height is lowered, the acoustics will most likely be ruined.

Tom Horrigan supports the auditorium. He asked for the board to forward the draft amendment to the selectmen.

Dick Spencer, the attorney for the School Department, asked that in order for the project to go forward with this design, the Planning Board should forward this amendment that was noticed for public hearing, which would allow this project to go forward.

Because of the standard included in this draft amendment, Dick Spencer continued, it would mean that, though the school is surrounded immediately by a residential area and would not normally allow the building to go above 35 feet, the Town Planner drafted this special exception to allow this project to go where it needs to go up to 45 feet, and to do so without opening a lot of doors for other situations.

Attorney Spencer continued. He understands that the Planning Board might include a standard of “Practical Difficulty” in a draft amendment being created this evening. He urged the board not to include that standard. Practical Difficulty would result in significant economic injury that would be very difficult for a public entity, like the School Board.

Dick Spencer continued. When putting the standard in the amendment that went out to public notice that was drafted by the staff, the staff followed the standard in Section 5.1.5.1 that is applicable to church steeples and is very similar to that provision in section 5.1.5.1.b.4. He said, “The board should stick to the one that went out from the Town Planner.”

Amy Phalon said the strategy of using Practical Difficulty, Section 18.8.2.10.b.1 in the new draft amendment being formed by the planning Board that night, makes the amendment as narrow as possible and addresses the abutters’ concerns that 45 foot building heights will not spread to residential and municipal buildings. However, Ms. Phalon concluded, during the public comments tonight, and with some more thought. She thinks the practical difficulty as in 18.3.2.10.b.1 is too difficult a task for a school to meet. The Board deliberated on language for the amendment that follows.

Motion: Al Cotton moved that per 5.1.5.1.b.4, auditoriums, gymnasiums, or similar facilities at the site of existing public school buildings, building height may be increased to a maximum 45 feet provided the applicant demonstrates that the increase in height limit

in the base zone is integral to the functional and technical purposes of the building as demonstrated by a registered design professional. Gordon Eldridge seconded. The motion passed 5-0.

Motion: Peter Smith called for a motion to forward the amendment to the Board of Selectmen for a public hearing for consideration. Lew Stowe so moved; Gordon Eldridge seconded. The motion passed 5-0.

Application reviews and Public Hearing

York Community Auditorium, Sketch Plan review. 1 Robert Stevens Drive. Map and Lot: 0038-0005; Owner York School Department. Proposal is to demolish the existing auditorium and build a 750 seat auditorium with associated meeting and support spaces

Town of York Assistant Planner Scott Hastings introduced the application. The York High School is proposing an addition for a 750 seat auditorium. The height is a known issue and is being addressed through the previous ordinance change. He asked the board to forgo discussion of that issue.

Building designer Frank Crabtree said the auditorium will be a compact fit into the music wing, alongside the gymnasium and the driveway. There will be no disturbance to the driveway, walkway, or parking.

The stormwater system was put in place in 2009 when the music wing was built. The stormwater system for this expansion has been accounted for in the large stormwater basin treatment buffer area. DEP approved that system in 2009, and another approval came in September, 2015.

The building designer continued. The existing parking has 370 spaces. It exceeds the need for parking for the 750 seat auditorium. The initial traffic assessment is pending. A traffic study will most likely not be required, based on the size of the seating of the auditorium. There is a school policy that events won't overlap. If there is an event in the auditorium, it will not coincide with either large activities in the gymnasium or a sporting event, thereby impacting parking. Zack Hardy from the School Department said he will bring more information about parking calculations to the Planning Board.

Lew Stowe said that during his field visit, it seemed about 90% of the 370 spaces were used up. Zack Hardy said that at big events, 40 or 50 cars are being turned away. When there is an overflow, people usually park on a nearby stretch of Webber Road or Robert Stevens Drive, where there are 30 or 40 spots. Lew Stowe said that 70 to 120 extra parking spaces are needed for community-centered activities. Zack Hardy said that they can look and see if there is any flat surface on the grounds that wouldn't conflict with wetland zoning where parking can be added.

Bus Parking Facility, Revision to approved plan. 1021 Route 1
Map & Lot: 0030A-0030; Owner Tobey Gardner. The site plan revision is to add a small office and make changes to the access and to the parking area layout.

Assistant Planner Scott Hastings introduced the application. The two outstanding issues have been addressed. Applicant Tobey Gardner has had a photometric plan made. The traffic report from Dean Lessard should come soon.

The landscape plan made last January won't be used because the landscaping would require a lot of cutting. There is a 50 foot setback from the buses to the end of the property and a little pond. Amy said that from the site walk she saw that the parking lot is very well buffered. A temporary office building is being wheeled in for the employees' use. It will have plumbing, and a septic tank has been designed.

The chairman opened the **Public Hearing**. No one came forward to speak.

Motion: Amy Phalon proposed that we accept the application for the Bus Parking Facility, 1021 US Route 1, Map and Lot 0030-0030A, with the condition precedent that the applicant provide the updated lighting plan and the traffic report when it comes back from Dean Lessard. The motion was seconded by Al Cotton. In discussion, Lew Stowe said he felt he could not vote on this because he was not familiar with the original application. The motion passed 4-0-1, with Lew Stowe abstaining.

York Colonial Center. Revision to approve plan. 4 Route 1.
Map & Lot: 0086-0001; Owner: Seacoast Property Holdings, LLC. The site plan revision is to change the approved use of the first floor areas of Buildings 2, 3, 4, and 5 from retail/professional use to Small Lodging/Tourist Homes/Inns.

Christopher Badeau asked the Board for an extension of the Certificate of Occupancy for the entire phased project, York Colonial Center. Buildings 2 and 5 are occupied, he said, and Building 4 will be up for occupancy on December 1. However, Building 3 remains unfinished. Some landscaping and other finish work have to be done.

He also asked to change the use from "professional/commercial" space on the first floor to "tourist lodging home." By eliminating retail commercial space, demands on the site regarding parking, traffic, and snow removal should present a better environment for the tenants, he said.

A trip generation study has been submitted to Dean Lessard. The report indicates that the actual trip generation will be significantly less than it is now. Less parking spaces and snow storage space will be required.

The four new buildings are qualified as 20 workforce housing units, Christopher continued. The older building with 2 apartments is not categorized as workforce housing.

He asked if the two apartments that are not could be switched into workforce housing, allowing two workforce apartments in the new buildings to go on the free market. "On some occasions," he said, "we have come across applicants who just marginally miss the criteria for workforce housing. They may live outside the radius of workforce housing." Al Cotton told him it is unlikely to make a switch like that. Peter Smith replied, "If you have people who can't quite make the requirements, you could put them in the two apartments that are above the retail."

Motion: Al Cotton moved to extend the occupancy permit for the entire project for an addition six months. Amy Phalon seconded. The motion passed 5-0.

Motion: Amy Phalon moved that we accept the application for review and public hearing. Lew Stowe seconded. The motion passed 5-0.

The Chairman opened the **Public Hearing**.

Peter Pelesis, owns the abutting property. He said the applicant damaged his property during sewer line installation. The trench left by the Bobcat was open for months. During installation of a utility pole, the pole and stays hindered his parking lot. He wanted the Planning Board to force the construction to stop until the damage is repaired. Chairman explained the Planning Boards place in this and then and sent Mr. Pelesis to the CEO. Pete Smith **closed the Public Hearing**.

Motion: Amy Phalon moved that we approve the application for York Colonial Center, 4 U.S. Route 1, Lot 0086-0001, with the condition precedent that we receive the report on traffic from Dean Lessard. Al Cotton seconded. The motion passed 5-0.

Other Business

Wayne Boardman had attended a Maine Municipal Association conference. He learned that if a board member misses part of an application, before voting on an application, that person should verify that s/he has done the research and gotten to the position where they can vote on that application confidently. Otherwise, they would abstain from voting for the whole discussion.

Scott Hasting said that an outside planner will oversee application reviews for the York Auditorium. For many municipalities, it is standard procedure to use an outside reviewer for the Town projects.

- **Motion:** Amy Phalon moved that, as the York Community Auditorium application is a municipal application, we direct the Planning Department to seek an outside reviewer to review the application. In discussion, when Lew Stowe said he did believe this was necessary, Scott said it is to avoid conflict of interest. Al Cotton Seconded. The motion passed 5-0.

The Board signed the Mylar for **Bog Road Athletic Fields**

The Cliff House Resort and Spa Findings of Fact have been reviewed by the Town Attorney. It will be reviewed by the Board at the upcoming workshop.

The Board signed Findings of Fact for the **Bus Parking Facility**

The November 19, 2015 workshop meeting will be at the Senior Center.

Adjourn

10:38