

York Planning Board
Thursday, May 13, 2010, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Vice Chairman Lew Stowe conducted the meeting in Chairman Tom Manzi's absence. There was a quorum of four comprised of Lew Stowe, Dave Woods, Todd Frederick, and Tom Prince. Tom Manzi and Torbert Macdonald were absent. Tom Prince was asked to vote in Torbert Macdonald's place. Town Planner Christine Grimando represented staff. Patience Horton took Minutes. This application hearing lasted just over three-and-a-half hours and was televised.

Public Input

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

No one came forward to speak.

Field Changes

No field changes.

Minutes

Review and approve April 22, 2010 draft minutes.

The April 22, 2010 minutes were accepted without change.

Motion: Dave Woods moved to approve the April 22, 2010 minutes as written. Todd Frederick seconded the motion, which passed, 4-0.

Application Reviews and Public Hearings

Momma Angie's Italian Kitchen 127 Long Sands Road. Map & Lot 0044-0046 Application for Change of Non-Conforming Use, to establish a new restaurant in Long Sands Plaza

John "Tank" DiGiacomo said it has been a lifelong endeavor to create a unique Italian restaurant. Angie is Tank's mother's name. His father had made the recipe for pizza at Regina's in Boston's North End, and he plans to use it. This is a 48-seat, 2200 square foot restaurant in the Long Sands Plaza offering both eat-in and take-out dining.

Dave Woods said Fazio's was in that mall originally with 98 seats and never had an issue with parking. Mall owner Katie Watts said since the location has shared parking, it does not need the stringent parking standards single stores have. The Chair opened the **Public Hearing**. No one came forward to speak.

Lew Stowe asked when it is that the parking lot is 90% full. Tank said during flea markets four times a month on Saturdays. When there are other things going on in the area,

the lot can be fuller. Lew Stowe asked if the paved area in the back is lined, and it is not. He suggested having it lined. Dave Woods said it would not be prudent because trucking and dumpster uses do not mix with parking uses. He suggested putting more than 48 seats in the restaurant based on Fazio's restaurant, but Tank DiGiacomo said 48 seats was realistic. Christine Grimando said he could get approved for 48 seats and come back for an amendment if he wants more. Tank DiGiacomo said he plans to get his own sign aside from the big one out front. He will not have people coming to the curb to run in for take out.

Christine Grimando said she will draft up the Findings of Fact.

Motion: Todd Frederick moved to approve application for Momma Angie's Italian Kitchen, the 48-seat restaurant located at 127 Long Sands Road, Map & Lot 0044-0046. Dave Woods seconded the motion, which passed, 4-0.

Addition to Bell Farm's Antiques 244 US Route 1. Map & Lot 0067-0007 Route 1 Use Permit for a 280 sq. ft. addition to existing shop

Board members complimented Rex Lambert on the building at Bell Farm's Antiques, one he had designed and built himself. He described the style as the epitome of "Maine Rambles On." He seeks an addition for the garden shop with no change in use. The Chair opened and closed the **Public Hearing**. No one came forward to speak. Christine Grimando said the building is nonconforming with a setback that does not meet code on the southern side. Christine Grimando read her recommendation to go ahead with the project.

Motion: Dave Woods moved we approve the building permit for the 280 square foot addition to the existing business on to Bell Farms Antiques, 244 U.S. Route 1, Map & Lot 0067-0007. Todd Frederick seconded the motion, which passed 4-0.

Keitts Point Access 205 Beech Ridge Road/18 Claude McIntire Road Map & Lot 0086-0036/0086-0031-D. Application for a Shoreland permit for Road Construction and a Special Use Permit for the Resource Protection District

Applicant Dave Gross believed the name Keitts might have come from the original 1668 owner, Michael MacIntyre, who might have a friend named Keitts. Dave Gross said last year he went through Planning and got a building permit to put in a house. There are two properties and one can only be reached by crossing the MacIntyre property. A route for doing that has been laid out by a soil scientist and surveyors. Planning board members is board to approve the access route across the MacIntyre property.

Lew Stowe said this proposed 12-foot-wide entry road involves requiring a 100-foot setback from the river because of resource protection. The planning board could reduce the setback to 50 feet. A different route for the road would encroach on a wetland of special significance and require fill.

Chuck Ott of the **Conservation Commission** reminded the board that the land is resource protected. Per 8.3.8.2, the setback requirements can be reduced, but that this is perhaps the most precious area in York has to be considered.

Diana Dennett told the board about Settlement Agreement 84-44 in State Superior Court, a filing about the right-of-way, which has been overlooked. She has given a copy to the Town Planner, Christine Grimando. She described the wildlife in area. She described changes that have occurred in the landscape. The right-of-way currently used crosses her lot and people use it illegally. The current right of way is substandard. She said that if this road is approved, it will lead to many problems. An alternative has to be found. The chairman closed the **Public Hearing**.

Lew Stowe asked her several questions. She said she owns 29-plus acres, though the Town says she owns 39. There is access to the Gross property from the top of the hill, she said. Christine Grimando said that issue is not before the board. The chairman closed the **Public Hearing**.

Tom Prince said the board has to be convinced that there is no other access to the property. Todd Frederick said the board can only look at the route that is before us. There is no hard evidence that there is another way in.

Lew Stowe said that if there is a court case, the board cannot hear the application until it is settled. Christine Grimando said that there is not documentation about pending litigation. There is nothing written down. Diane Dennett has no complaint in front of CEO Tim DeCoteau.

Lew Stowe asked for a recap of the site visit. Todd Frederick said it had rained for many days. The soil scientist (Fricke) was there. The route was flagged. The groups walked through some wetlands and got a good feel of the property. Tom Prince asked if there were potential different rights of way. Lew Stowe said there are two road proposed. They had walked to the point where they were trapped by the wet area. Tom Prince said he is not convinced there isn't another way to get in there. There has to be a construction engineer or peer review to look at the driveway design. We are looking for the best design road layout within the defined corridor.

Paul Gross said the only way to make the alternative route would take 6,300 feet of fill. That is an option which does not exist. Christine Grimando read 8.3.8.2 governing road construction in the shoreland overlay district. There is possible setback reduction from 100 feet to 50. In this case, it would take 2,000 square feet of fill, where 4,300 is the maximum.

Motion: Tom Prince moved to have a peer review to determine if there is any way to modify the design of the layout of the right-of-way to minimize the impact of the York River and the adjacent wetlands. Dave Woods seconded the motion.

In discussion, Dave Woods said the road construction will be unique and the applicant has to have the chance to submit the proposal for review.

Vote: The motion passed, 4-0.

The Gables at Eastern Point 6 Norwood Farms Rd. Map & Lot 0052-0011 Final Review of conversion of a nursing home facility to duplexes

Greg Orso, attorney for the owner, introduced Joe Carronade of Jones & Beach Engineering, who addressed the issues raised by Town Planner Christine Grimando in her latest memo. Joe Carronade said the Historic District Commission has no issues with the demolition of the nursing home. Reviews from the Water, Sewer, and School Districts are pending. The peer review on drainage is expected from Oak Engineers. Charles Hugo, the landscape architect, has resolved the mismatch between the draining plan and the landscape plan, and it has been resubmitted. The patios have been cut back and do not cut into the setback.

Greg Orso said the required letter expressing financial capacity to complete the project was submitted to the planning office earlier the same day. The cost estimate performance guarantee has been submitted, including an entire sheet of notes. It will be in place before the pre-construction meeting.

Note 19, the time frame for construction, indicates the developer plans for all site work, foundations, and landscaping to be done first. Then one unit will be built. The following two buildings will be built within three years, or as the market demands. The neighboring abutter who is interested into tying into the sewer can accomplish that with an amended plan at a later date might let that happen.

There will be no lights at the end of the driveway. The pole light has been removed. The proposed entrance pillars have low-level accent lighting. The sign will be built into the pillar. The depth of the ledges will ascertain the extent of the blasting on the site. There will be no outside storage.

The Chairman opened the **Public Hearing**. **Mark McGrail**, Unit 6 at Norwood Circle Condominiums, spoke about density standards. He would rather see more traditional buildings in keeping with the surrounding buildings and grounds. **Michael Brassard**, 8 Mulberry Lane, asked how asbestos will be handled during the demolition. Will there be specific hours of construction? Will the foundation be landscaped? Construction equipment should be confined to the site. **Karen McGrail**, 6 Norwood Circle, asked why the landscaping plan has not been finalized. If Balsam Firs shield her property, they can grow upward of 48, 66, or even 89 feet. She hopes for better landscaping and thinks two buildings would be better than having three.

Marv O'Connell said he is asking for an easement for the sewer, but the condo association has deferred the subject. **Mr. Young**, president of the Thorncroft Condo Association, an 1880 building next to the Gables, was concerned about the demolition. When will it start? Christine Grimando read an email from **Nick Pappen** of York Street. He

hopes the landscaping will be done as soon as possible to get the screening in for less noise and dust.

In response to public hearing questions, landscape designer Charles Hugo explained that the Balsams will grow six to eight inches every year. The initial trees will be 10-feet tall. Atty. Greg Orso said contractors have been contacted for removing the asbestos. Moving it is regulated. Demolition will take three to four weeks. Noise and construction equipment can be discussed in the pre-construction meetings. Thought the work is done sequentially, this is not a phased plan. The **Public Hearing** was closed.

The application has met all the criteria of 1.2. Christine Grimando said everything has been submitted except a couple of loose items. There is nothing outstanding regarding non-conformity, including parking, lighting, noise, stormwater, impact statements, character of area and fumes, litter, and waste.

Motion: Dave Woods moved pursuant to Section 1.2 of the Site Plan and Subdivision Regulations, the applicant has met all 19 criteria as listed in the findings of fact. Todd Frederick seconded the motion, which passed, 4-0.

Motion: Dave Woods moved that pursuant to 17.1.4.1 of the York Zoning Ordinance, the York Planning Board evaluated the immediate and long-term effects of the proposed project and found that the project is considerably less non-conforming than the current use of the property. The development proposed is more compatible with the surrounding neighborhood. The use is similar with 6 units of luxury condominiums. Many of the abutting properties have multi-unit buildings comprised of similar numbers of units. Todd Frederick seconded the motion, which passed, 4-0.

New Business

- Lew Stowe will suggest edits and changes for the Eldredge Findings of Fact.
- A second visit to the York Beach project area is planned for June 5, 2010.
- In the event that CVS becomes interested in the Walgreen's application, they will have to come back to the Planning Board for any changes.

Old Business

Christine Grimando said Bournival Dodge has not fulfilled its agreement to finish requested landscaping. The board should show good faith and allow him to reestablish a reasonable timetable.

Adjourn

The meeting adjourned at 10:40.