

**York Planning Board**  
**Thursday, October 9, 2008, 7:00 P.M.**  
**York Public Library**

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

Chairman Tom Manzi opened the meeting and determined Presence of Quorum. Barrie Munro, Glen MacWilliams, Dave Woods, and Alternate Todd Frederick were present. Lew Stowe was absent, and Todd Frederick was asked to vote in his place. Planning Board Candidate Valerie Gunn was not present. There were five voting members at the meeting. Town Planner Christine Grimando represented planning department staff. Patience Horton recorded minutes. The meeting was televised.

**Public Input** was called. No one came forward to speak.

**Field Changes**

For his first of five items, Seth Spiller, Cape Neddick Village, asked to substitute the approved cedar fence with a vinyl fence with a gate. The design would be the same. Glen MacWilliams said the fence would turn green, if it weren't washed. Seth Spiller said he liked the green.

**Motion** Glen MacWilliams moved to accept the alternative material for the fence. Barrie Munro seconded the motion, which passed, 4-1, with Dave Woods opposed.

For his second item, Seth Spiller asked to keep asphalt paving, instead of a concrete, for the dumpster pad. Dave Woods said it would not work well. The asphalt would scar. Seth Spiller said he wanted to use skids for the dumpster to land on. The asphalt pad would be used not only for the current Phase 1, but also for the Phase 3 second dumpster. He offered to show the skids to the Board. The board advised him to pour concrete for the pad.

**Motion** Dave Woods moved *not* to accept paved asphalt for the dumpster pad. Glen MacWilliams seconded the motion, which passed, 5-0.

For his third item, Seth Spiller handed out specs for outdoor lighting. The lights are similar to, but ten feet taller than, those at Eldridge Lumber. They are cast aluminum and come from a distributor that does not carry decorative lights. Seth Spiller asked to put one in as a test to see if the Planners like it. Christine Grimando asked about luminosity. Seth Spiller said these lights are low glare. Glen MacWilliams noted that the lighting levels are being changed from what is already approved. He asked for a comparison of the two light levels, which would be addressed at the next appearance.

For his fourth item, Seth Spiller asked for permission to plant Hemlocks instead of Spruce for the area behind the Cape Neddick Village buildings. The landscape architect had approved Hemlock, he said. Glen MacWilliams said Hemlock are vulnerable and

under threat. Seth Spiller said if they die, they would be replaced. Glen MacWilliams asked that the landscape architect come and talk about it. Seth Spiller said for the matter of time, he will put the Spruce in.

**Motion** Glen MacWilliams moved that the Board *not* accept the substitution of Hemlock for Spruce, because of the threat to the species. Barrie Munro seconded the motion, with regret. The motion passed, 5-0.

## **Minutes**

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

The July 24, 2008, York Planning Board Minutes were reviewed. Glen MacWilliams made minor changes he handed to the Recording Secretary

**Motion** Glen MacWilliams moved to approve the July 24, 2008, York Planning Board Minutes as corrected. Dave Woods seconded the motion, which passed, 5-0.

The Minutes of September 25, 2008, York Planning Board meeting were discussed. In the contents, it was noted the paving on Gull Street had still not been colored as specified in the plan. Therefore, if the CEO deems it, the Atlantic House would be in violation and the approved lunch hour might be suspended, and no other applications would be accepted under the same ownership until the matter was resolved to the CEO's satisfaction.

**Motion** Glen MacWilliams moved to approve the September 25, 2008, York Planning Board Minutes. Dave Wood seconded the motion, which passed, 5-9.

## **Application Reviews and Public Hearings**

### **Perkins Subdivision. 17 Ledge View Lane. Map & Lot 0006-0004-E. Sketch Review for a Revision to an Approved Subdivision Plan**

Architect Alex Ross, of Ross Engineering, Portsmouth, said a sketch plan had been presented in 1999. A conceptual plan was brought to the Board later, in December, 2006. Alex Ross asked for an abutter, **Alan Taplin**, to speak briefly and out of order, so Alan Taplin could return to Inn on the Blues to continue Open Mike Night. Alan Taplin said the subdivision plan change would widen the entrance road, and therefore, he had no problem with the change.

Alex Ross continued. He said since the 2006 hearing, the Town Planner has changed and the Subdivision Regulations have changed, too. The current plan for the right-of-way would disturb the wetland only half as much as was suggested in the 1999 sketch review. The design of the 18-foot roadway with a cul-de-sac would make better access and easier maintenance. The wetland crossing meets all Town regulations. Glen MacWilliams said the whole wetland is about 2 acres, which would call for a DEP Wetland Permit. With reference to Subdivision Regulation 6.1, Christine Grimando said road width standards are 20 feet, so cars can get around other cars safely. Glen MacWilliams said the road

would change the ecology of any existing pools or vernal pools. Applicant **Scott Perkins** said the wetland drains to the northeast onto the Weir property and toward the Shore Road. There is no standing pond. The soil scientist is preparing a report. The wetland is not of high significance.

The Board discussed the size of each lot. It was agreed that the plan satisfied both 11.3.2 (Road Crossings) and 11.4.3 (the gross wetland impact allowed per lot). It was also determined that the road grades satisfied SR 9.5.9 (Alternative Minor Roads). Christine Grimando said she had received feedback from Ledge View Lane abutters. They say they do not want additional traffic impacts caused by this subdivision. Dave Woods noted the A & B parcels have not been subdivided.

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

There was a discussion about the request to abandon the paper road ROW, and Christine Grimando said the paper road gives frontage where it needs to be and she advised that the paper roads “not go away.”

Application fees had been received. Alex Ross was planning to meet with Fire Chief Dave Bridges. Road width was discussed. The narrowest road width could be 18 feet, per Town standard. A narrower road would protect the wetlands even more, suggested Alex Ross. Dave Woods suggested having different widths through different parts of the wetland to provide turnoffs for vehicles to pass. Alex Ross would request a waiver for a variable roadway and cul-de-sac, instead of a hammerhead noting that ten percent is the steepest allowable grade for this road class.

**Cape Neddick House. 1300 US Route 1. Map & Lot 0015-0017. Application for a Revision to an Approved Site Plan**

JoAnn Fryer, CLD Engineers, said the Cape Neddick House lot was non-conforming from the beginning. She described the original building on its existing footprint and no expansion made. An apartment, bed & breakfast, and a salvage business had given way to an ice cream parlor in the old post office and a nine-to-twenty-four seat café in the carriage house and connector. Phase 1 is under construction, and some areas have occupancy permits. She pointed out other previously permitted changes: stormwater drain and a larger, repaved parking lot. Christine Grimando said the requirements of the multifaceted project are figured out as it goes along. The uses require the expansion of the leech field.

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

**Motion** Glen MacWilliams moved to accept the changes, as shown. Barrie Munro seconded the motion.

In discussion, Glen MacWilliams asked for more clarification of the note changes. **The motion passed, 5-0.**

**Bayberry LP/Walgreens Pharmacy. 401 US Route 1. Map & Lot 0053-0002-A. Review of a proposed Walgreens Pharmacy and additional commercial space.**

David Latulippe of the Richmond Company represented both Bayberry LP and the Richmond Company. Peter Hendrick of Gorrill Palmer began the presentation discussing traffic. A traffic study was done in March, 2005. Then-DPW Director, Bill Bray, approved the study. Since then, Walgreens' traffic was theoretically added to the report, and Walgreens was anticipated to cause minor increases in traffic volume, but with overall traffic volume less than what was forecast in 2005.

Maureen McGlone talked about photometrics and had submitted a new plan that complies. Tom Manzi said the lighting was a concern to the abutters.

Architect Mike Lasso brought in a revised elevation. He and Landscape Architect Terrence Parker had made cross-section simulations of the Walgreens property. The east-west cross-section strung an imaginary view from a house behind Walgreens, along trees and plantings at the back of the property, up to the Walgreens' building, itself. The north-south elevation was cut from a line parallel to Route One, and showed the face of the building and the plantings along either side. Mike Lasso then showed elevations with color and scale. Dave Woods asked about the windows on the south wall, where there was only one. Mike Lasso said the simple forms and scale do not invite a bunch of windows, just because they "have" to be there. Todd Frederick asked why there can't be a window under each dormer on the south facing side. Glen MacWilliams said he liked the building scale and the fenestration, though it is not New England in Character. He suggested making a false window boarded up in the facade. Mike Lasso said he would look at the idea.

Maureen McGlone said Mike Cuomo had done a High Intensity Soil Survey. Through a memo, he discussed a variety of test pits and findings. The Memo did not address the seasonal high water table nor storm water. The report did not find anything divergent to that which has already been documented. The high water tables are not where the building is going to go. She said post-drainage would be less than pre-drainage. The system, per ordinance, will include a 25% surplus capacity. She added Richmond Company is putting \$35,000 into escrow toward the care of downstream drainage that had not previously been maintained.

Glen MacWilliams referred Section 16.4.16, requiring that development drainage will not create erosion. The abutters insist that this plan not cause downstream flooding. Barrie Munro said the impact statement would have to have to address this specific subject. Maureen McGlone said the drainage system will be maintained once a year. The emission is a constant emission. Barrie Munro said, it fills up, and it continues to let water out at the same rate. There is no reason why the quality of the water would be impaired. The first pond is pretreatment to get the sediment out, before the water goes into the wetpond.

David Latulippe said the \$35,000 donation would be submitted to DPW Director Dean Lessard and the Planning Board, when the applicant picks up its permit. There would be

no strings attached. It is a contribution to assist with some of the problems that have been identified. It is to help maintain existing drainage swales. It is a public improvement fund. It should allow for 10 to 15 years of maintenance. Glen MacWilliams said what goes on downstream is something Bayberry should concern itself with. Dave Latulippe described a plan for redirecting the water from the field behind the fruit stand to the upper end of the cul-de-sac to minimize the flow that must exit through the Stock's yard. He described some other necessary changes. He talked about repairing and replacing old catch basins, such as Walter Ziobrowski's and put that catch basin on their inspection program.

The Chairman opened the **Public Hearing**. **Walter Ziobrowski** handed out and read a letter he had prepared. He talked about drainage problems and traffic problems. He said he is repetitive and insistent about this project, because he is protecting his home. Glen MacWilliams said that if this is done correctly, the water flow will not be on Walter Ziobrowski's property.

**Mike Micciche** brought in sequential deeds with three separate dates. Two previous deeds had restrictions that the pond would not be disturbed. That statement is missing from the third deed (and so is the pond). Mike Micciche wondered if the restriction was illegally removed from the third deed. He showed an aerial photo that includes the pond, and he showed a later photo that does not. The soil test should have been done where the pond was, he said. Dave Latulippe said he'd look into it. Also, Mike Micciche said he was under the impression that all the water would drain toward I-95, but that's not the case. Barrie Munro asked if all the drainage from Rite Aid goes toward I-95. Apparently, according to Mr. Micciche, the drainage from the newly designed and constructed Route 91 and US Route 1 intersection was directed through the Cottage Place system and thence through the berm opposite Mr. Ziobrowski's lot.

**Todd Crawford** described himself as mechanical engineer at the Navy Yard. He said the drainage problem has to be solved before that application can be approved. At some point, water will run off the property at the same rate it enters. He mentioned mosquitoes breeding in stagnant water. The pond will prove to have stagnant water when it freezes over.

**Sheila McGovern-Reynolds**, 1 Flintrock Drive, described herself as a mom. She wishes the pond could be returned and adds that trees can offset carbon. Most people don't think York needs another pharmacy, bank, or restaurant, she said. She showed the drainage ditch and berm on the Franklin Property near a ditch that rarely fills up with water. The chairman closed the Public Hearing.

At 11:45, Barrie Munro said the meeting should not go past 12:00.

**Motion** Barrie Munro moved to terminate the events for this evening, and the Board should not finish this application past 12:00. No one seconded the motion.

With the possibility of postponing a decision to the next meeting, Dave Latulippe requested working for one more half-hour, then deciding postponement or not.

**Motion** Barrie Munro moved to send the copies of deeds to Legal Counsel, along with copies of the application, to ask if the covenant or description with regards to the pond, as identified in the deeds, is binding on the most current deed. In addition, what would be the affect the board's ability to review this application? Dave Woods seconded the motion, which passed, 5-0.

Dave Woods asked about the capacity of the wet pond. Al Palmer, of Gorrill Palmer, said the York ordinance requires the 50-year storm as the basis or capacity. The pond is discharging a level at or below the 10-year storm level. There is a second degree of conservatism with the 25% extra. It allows for an extended release. Barrie Munro asked Christine Grimando to ask Dean Lessard or the Town Engineer if the existing culvert below the Stocks property at the intersection of Mallard Drive and Flint Rock Drive is adequate. Mr. Munro explained that in a recent storm he had observed this culvert to appear to be inadequate. The question would be whether or not increasing the Stock's existing culvert from 12 inches to 15 inches would exacerbate an existing problem. Glen MacWilliams said the Town has to follow the engineers' recommendation. Tom Manzi said one abutter getting attention and the others getting none makes the Board want to make sure there is no failure. Dave Latulippe said in fairness, he had spoken to Mr. Stokes and Walter Ziobrowski. The applicant is only going to do offsite mitigation with abutters who ask for it, and who are in agreement. Dave Latulippe had made an agreement with Mr. Stocks. The mitigation offered Walter Ziobrowski had fallen through because of Walter Ziobrowski's request for test wells. Dave Latulippe said he does not believe in the science behind such test wells, but said he would work with the abutters and test wells, as long as there is science behind Them.

**Motion** Dave Woods moved if the board cannot get through 6.3.5 that evening, the application would be extended for 30 days. Todd Frederick seconded the motion, which passed, 5-0.

Barrie Munro led the board through 6.3.5. A positive answer was given in virtually every instance, including: boundary survey, physical aspects of the property, impact statement, general arrangement of street, grading, landscaping, traffic impacts, deed for property (remains open), proof of ownership, easements and rights-of-way, phosphorus pollution, scenic resources, historic resources, locus map, habitat blocks for plants and animals, lot lines, floodplain, sewage disposal, water supply systems, fire chief's letter, narrative of stormwater plan, drainage plan, temporary markers for site visit; sight distances, high intensity soil survey, traffic impact analysis, and request for waivers, Planning Board review fee, and a few other administrative matters.

**Motion** Barrie Munro moved to approve this application for preliminary approval. Todd Frederick seconded the motion. The motion passed, 5-0. That ended the Walgreens hearing.

### **New Business**

Dave Woods said 2 positions are open on the York Beach Zoning Subcommittee. Brent Merritt had applied for a position.

**Motion** Barrie Munro moved to accept Brent Merritt as a member of the York Beach Zoning Subcommittee. Dave Woods seconded the motion, which passed, 5-0.

Dave Woods said traffic, architectural design, and infrastructure are topics that will be treated in the future by the Subcommittee.

Dave Woods said the economy being so bad, and business being 50 to 75 percent off, anyone who wants to build should be able to. Christine Grimando answered that the Board does not have the authority to make that decision.

### **Old Business**

There was no old business

### **Other Business/Adjourn**

Mylar and Findings of Fact were signed for Larenas Lot Line Adjustment and York Hospital Expansion Amendment

The meeting adjourned at 12:10.