

York Planning Board
Thursday, September 24, 2009, 6:00 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, Dave Woods, Todd Frederick, and alternates Torbert Macdonald and Tom Prince were present. Barrie Munro and Lew Stowe were absent. Torbert Macdonald and Tom Prince voted in place of them. Town Planner Christine Grimando represented the Town Planning staff. Community Development Director Steve Burns and Code Enforcement Officer Tim DeCoteau were on hand for presentations. Patience Horton recorded minutes. This workshop lasted a little more than three hours and was televised.

Public Input

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

Hearing no one and seeing no one, the chairman closed the public hearing.

Field Changes

The Town Planner said there were no field changes.

Minutes

Review and approve draft minutes

Board members went over corrections for the September 3, 2009, and September 10, 2009 meetings. The corrections were passed to the recording secretary to make.

Motion: Todd Frederick moved to approve the September 10, 2009, minutes, as amended. Dave Woods seconded the motion, which passed, 5-0.

Motion: Torbert Macdonald moved to approve the September 10, 2009, minutes as amended. Todd Frederick seconded the motion, which passed, 5-0.

New Business

- Surf Point Artist Colony

Town Planner Christine Grimando described the Surf Point Colony as the first artists' colony in York. Ultimately, the project does not hit planning board triggers, so it will never be an application. But benefactors Mary-Leigh Smart and Beverly Hallam, who had come to this hearing with Architect Barry Stallman and Landscape Architect Steve Moore, have come to be coached for a potential ordinance change. There isn't a corresponding use in the table that corresponds to this artist colony, no artist retreat. Right now, the closest use description is of an educational institution, said Christine Grimando. Torbert Macdonald said the artist colony is of imminent worth to the community, and he hoped the board could help work around the restrictions. Dave Woods asked if the sleep-

ing quarters would be dorm style. Co-housing is proposed with this colony. Torbert Macdonald said co-housing is a way of grouping small individual dwelling units around a common house, like Spring Pond Estates, but smaller. The dwelling areas will be 600-700 square feet said Steve Moore.

Mary-Leigh Smart said she bought the property in 1970, after moving from Ogunquit, where she grew up in the middle of the art colony that had settled there. As early as 1970, creating an art colony with small studios on her property was her great interest. She and Beverly Hallam made the main house at Surf Point a duplex to live in. When Mary-Leigh Smart began to think about what might happen when she dies, she thought of bringing artists to the estate to share the view and atmosphere for creative activity. The corporation structured to enable this colony is a charitable organization called the Surf Point Foundation. It was formed in 1988. By her will, the foundation will not be active until she passes on.

The Surf Point Colony is modeled after the McDowell Colony in Peterborough, New Hampshire, and is planned according to that model. Surf Point will invite recognized artists to come and complete a body of work. They can for up to a year. The housing will not be dormitory style. The artists will live in studio units located in her home and re-structured garage, which will be razed and then rebuilt larger to make space for two artists, plus the director and the caretaker. The artists do not pay to live at Surf Point. They are given board and living quarters as a gift of the foundation.

Landscape Architect Steve Moore said there are 41 acres to the property, some of which are deeded to a land trust. Several acres of wetlands leave 23 acres developable for the house, an extra planned house to be built, and the garage building. Dave Woods asked if the artist colony is a commercial endeavor. Steve Moore said ordinance does not allow a commercial endeavor. The buildings would not be commercial, and they would not be rented out for a fee. When Christine Grimando asked if there would be events, Mary-Leigh Smart said, no, there won't be any events.

Steve Moore said the colony takes after a private school more than any other allowable use for this zone, and it is apparent that is the most appropriate use category for the non-profit.

Steve Burns said there are more issues than use. Multiplex housing is allowed in the Shoreland Zone, but not in the underlying, RESidential-1A Zone. Architect Barry Stallman agreed RES-1A prohibits multiple dwellings, but this is not a dorm consisting of 30 dwelling units. Christine Grimando said a multiplex project implies a transient population in a residential zone that does not fit into the ordinance cleanly. As well, there must be sufficient Soil, Septic, Water, and Traffic analyses to assure the site will support the density of the Colony. The artists might leave their personal vehicles off the grounds and be shuttled to the colony.

Christine Grimando said a new use could be considered, but sections of the ordinance fit with the concept of the private school. That fit includes four units going into one build-

ing. Barry Stallman described the multiplex layout, including the transformation of the garage into a building twice its size with a second floor. A third building on the property is proposed. It will have additional studios and will fit onto land trust land that is adjacent to the main property. The small dwelling units will have little kitchens for fixing a simple breakfast every day. Subsequent meals will include a lunch delivery and a group meal in the main house in the evening.

Tom Manzi asked how the foundation could go into perpetuity, as willed, if the market collapses. Steve Moore said building out the entire plan right away, is not even contemplated. Rather, the build out will take some period of time. Foundation documentation indicates that, if the art colony fails, the main house can revert into a residence. Mary-Leigh Smart interrupted that one. If it fails, she said, it all goes to a non-profit organization, or organizations, that is named in my will.

Landscape architect Steve Moore said that the easement document directs the existing structures to remain if the colony fails, and no new building can then be built. Mary-Leigh Smart said that if the proposed building has not been built, and the foundation fails, it cannot be built, and nothing could be developed beyond that.

The planners and applicant team continued discussing the complication of defining a use that would agree with the ordinance. Steve Moore said the category of home occupation might be a default use, and instructional services comes close, as well. The real problem is the issue of the dwelling unit. Dave Woods said residents are working on their art. There is nothing commercial about that.

Code Enforcement Officer Tim DeCoteau said that in finding a use, they must find one similar to a current use. If it is similar to one that is permitted, it will be permitted. Likewise, a use that tends toward a prohibited use will be prohibited. It does not matter if it is for profit or nonprofit. Similarity to a permitted use makes it permitted. Still, the use has to be named. It is not unusual for a school to have dorms. Private sleeping and dwelling spaces are not unreasonable under the use of "school." Dwelling is a permitted use. However, it cannot be an "artist colony." Artist Colony is not a permitted use in York. Private school fits into the category. Home occupation does not work. The use has been gone over with a fine-toothed comb.

Steve Moore said §4.1.1 allows a school in RES-1A, but 4.1.3 says it must be 250 feet from the high water mark. This is a beautiful, museum-like house within 250 feet of the high water mark. Mary-Leigh Smart and Beverly Hallam believe the proximity to the shore is an important part of the artists' experience. They will propose an exception for that building which already exist within that mark.

Torbert Macdonald asked, "Why not create a new use category for artist colony?" It would get past the issue of the dwelling unit. A dwelling unit and a housekeeping unit are the same thing. There is no way around calling them living units. Dave Woods also said that instead of changing zoning to allow this, he would rather see a new use category. Barry Stallman said that the land use charts in Peterborough, call the use for the colo-

ny “artist colony.” Christine Grimando said she liked the idea. In creating a new use, York could make way for another artist colony down the road. Torbert Macdonald said the use should be recognized as a permitted use that is described accurately. It should be described and called what it is, and get it permitted. Todd Frederick said setting up an artist colony use would enable the artist colony to move ahead as quickly as reasonable. Tom Manzi agreed with calling it what it is and making that a permitted use.

Christine Grimando said she would bring together zoning amendments for the use and parameters of artist colonies in Deer Island, Skowhegan, and Peterborough. Steve Burns said he was in the middle of changing the format for the use tables in York. As little policy will be changed as possible. May 2010 will be the target referendum. The bigger issue, he said, is how amendable the State will be to changing the shoreland zoning.

Steve Moore said Mary-Leigh Smart and Beverly Hallam had received the direction they were looking for, and he thanked the Planning Board on their behalf.

New Business

- Preview of May 2010 Special general Referendum

Town Planner Christine Grimando said five items are proposed for the May Referendum. The first workshop of the May ordinance amendments will be in October. She gave a quick rundown of the five items.

1. Chemicals in the Shoreland Overlay District (Article 8)
 2. Weddings at residences (Article 7)
 3. Structure definition (Article 2)
 4. Jurisdiction of non-conforming use changes in the Watershed Protection Overlay District (Article 10)
 5. Presentation on Flood Map Changes
- * Zoning Reformatting (* For November 2010)

1. Chemicals in the Shoreland Overlay District (Article 8)

Christine Grimando said Shoreland Resource Officer Ben McDougal had been working on the shoreland amendment pertaining to chemicals and spraying. Spraying has to be limited and what can and cannot go on lawns and recreational spaces has to be defined. Dave Woods said having a green lawn is important, but he would have to lobby against restrictions. However, the greens look great at the country club, and they are treated with organic. Parks & Rec has gone organic, said Steve Burns. The athletic fields around here look pretty good. The Board of Selectmen requested this amendment a year ago because bacteria, pesticides, and insecticides are all washing off the developed areas into the water source, and those are the pollutants that go into the rivers.

2. Weddings at residences (Article 7)

Christine Grimando said people have inquired about commercially renting out certain rural or oceanfront properties for weddings. Steve Burns said the new owners of River House, which was built for functions, have approached him. It is perfect for that. They

have a limited number of events every year. At Graystone on the Cape Neddick River, there have been citations for traffic that blocks the road during events. Issues include lot size, zones, and frequency. Events have to be structured so there is not a big impact on the neighbors. Perhaps trolleys could be rented out. If someone wanted an event in his or her own house, that would not be a big deal.

3. Structure definition (Article 2)

Christine Grimando said the Planning Board had sent the structure definition to the Board of Selectmen before, but the selectmen did not send it forward to the ballot. There was an aspect of the definition that the Board of Appeals might have found a problem.

4. Jurisdiction of non-conforming use changes in the Watershed Protection Overlay District (Article 10)

Christine Grimando said the amendment is a simple administrative change to a task that currently does not fit the Board of Appeal's work. The Planning Board should administer it, instead. Steve Burns called it a cleanup.

5. Presentation on Flood Map Changes

Code Enforcement Officer Tim DeCoteau used PowerPoint to illustrate 12 different flood zones maps throughout York, as he spoke about floods, maps, and insurance. In 2002, the Federal Government decided to revise all the U.S. flood maps, but it was too costly and difficult. FEMA is currently preparing new flood area maps. The outlines of flood-plains will change in most maps.

For example, York Beach center was taken out of the flood zone and will probably go back into it with the new maps. The present flood zone boundaries on the York Beach map, and all the maps, were marked in red, with the probable changes to boundaries in blue.

Tim DeCoteau showed the far reaches of the Mother's Day flood and compared them with the current outline. The difference was quite substantial. There have been two 500-year storms in the past five years, including the Mother's Day storm. Storms will no longer be rated by years. A 100-year storm has a 1% chance of occurring, so the 100-year storm is being called a 1% storm. In the Little River and Long Sands area, people have been taken out of the flood zone--but those people are still getting flooded. Some maps don't make sense, he said. The flood zone is completely off target in the Vineyard Lane area.

Steve Burns said these maps are based on the sea level today. They will be different when the sea level rises. The flood plains will change by six or twelve inches. He imagined how Route 1A will be washed out again and again, and how it will affect the sewer line that runs along the dunes past Camp Eaton. The map changes reflect stronger storms.

York's two-foot contour data has been sent to FEMA to be incorporated into the final maps. There is no guarantee they will be used. Steve Burns said when maps are inaccu-

rate, people who do not realize they are inside the floodplain do not buy flood insurance. They are misinformed. Then, after the flooding, they cannot get the benefit when it is proven they are in the floodplain.

Tim DeCoteau said the people of York cannot afford to ignore flooding issues. Six hundred properties in town fall in the flood zone. Property owners outside of the 1% storm zone are entitled to preferred flood insurance. Those owners can get 70% off the price of flood insurance. If FEMA moves the outlying property into the flood zone after the insurance is in force, the insurance will not lose its discounted rate. Preferred insurance has to be purchased before it is required. The property owner must keep the preferred insurance in effect. If there is even the shortest lapse, the discount is lost. If the insurance is maintained with continued payments, the preferred rate can transfer from one owner to the next, if/when the property changes hands. Steve Burns added that insurance has to be purchased at least 30 days before a hurricane. December 23, 2009, is the deadline for getting the discounted insurance.

Steve Burns said it is very important for the Town to continue to be in good standing with the National Insurance Program. Otherwise, imagine the loss to the community, if roads and bridges have to be repaired after a significant disaster.

The presentation ended. Christine Grimando said there would be follow-up discussion.

* **Zoning Reformatting (for November 2010)**

In the past year, Planning has worked on zoning application processes, said Steve Burns. People who work with the zoning process approach the information from the angle of a particular property. There are two formats for approaching zoning: small and big. The people want the small one, but what we have is the big one. It has a lot of fine print. The better 10B formula offered the uses and provisions for zones, one-by-one. The idea is to regroup the format for the 20 zones and then define the uses. The majority of uses—like garden centers-- are not defined anywhere. The standards for site plans should be in the zoning ordinance. The goal, he said, is to do this without forming policy. Steve Burns's group is currently researching 40 years worth of voting on the town's codes. Among other things, they are searching for obscure codes that are difficult to find. November 2010 is the expected time for the project to be finished.

Old Business

There was no Old Business.

Other Business/Adjourn

- Christine Grimando reminded the Planners of the October 1, 2009, Planning Board workshop.
- The York Beach Transition Zone meeting is to be in the Library conference room. She has invited former York Planning Board members to attend.

Brown Bag Lunch Events

- Christine Grimando had handed out a bicycles and pedestrians flyer in preparation of the October 21, Brown Bag Lunch Event.
- Steve Burns said the November's Brown Bag Lunch would be about flooding.
- A later one will be about the pollution around the Cape Neddick River.
- Ben McDougal will present another one concerning vernal pools.
- March will be about using the GIS.
- The final, sixth lunch in May will be about any interest anyone asks about.

Preview of Upcoming Workshop Agendas

- Christine Grimando said the workshop agenda sketches out workshops for the coming year.
- A flyer about procedures training for the various boards for both staff and board was also handed out.

At the Beach

- The work for putting a pipe down Beach Street continues to move ahead. The water flow through the new pipe infrastructure of Railroad Avenue and Ocean Avenue is a hot topic.
- Lights are being considered as is the removal sidewalks and setbacks in the campground.

Wilderness Safari

- The planners discussed the safari through the growth area. It is planned for the end of October.
- The first frost is expected this Friday.

The meeting adjourned at 10:10.