

York Planning Board
Thursday, July 11, 2013, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Todd Frederick called the meeting to order. A quorum was determined with four people voting: Chairman Todd Frederick; Vice Chairman Dave Woods; Board Secretary Lew Stowe; and Al Cotton, Jr. Alternate Brud Weger was absent. Christine Grimando, the Town Planner, represented staff and recorded minutes. Patience Horton the recording secretary, was not present. She added details to this document by reviewing the online streaming.

Public Input

Torbert Macdonald, Jr., spoke as a citizen. He said the Planning Board had hired Ransom Engineering to assist in reviewing the Police Station/Connector Road project. In the past two years, the Town paid Ransom \$160K for peer reviews, including for the Police Station project. He said hiring Ransom was an error on the part of the Planning Board, and that it was not too late to reconsider during the Other Business portion of tonight's meeting.

He also said a member of the Planning Board had not been reappointed by the Board of Selectmen. He said he personally had been removed from the Board for a period of time in the past by the Selectmen. This was an error on the part of the Selectmen. According to Christian Barner and the MMA, there is no State Case Law describing procedure for dismissing appointed people from a municipal board.

He also said that the owner of the Sea Latch has a legal right to use the rear exit because he has the right of way. But that does not mean he has a *commercial* right to use the rear exit. During the Sea Latch application process, the Planning Board licensed the rear exit as a commercial right of way. That was an error on the part of the Planning Board, he said.

Field Changes

There were no Field Changes.

Minutes

No minutes were reviewed

Election of Officers

Planning Board Chairman Todd Frederick conducted the reelection of offices. In the past, he said, the Planning Board has forwarded recommendations to the Board of Selectmen, and the Selectmen have determined who will be appointed. Two members'

terms have expired, and we are waiting for appointments to be made. But they have not been made on time. The Board processes applications, zoning ordinance changes, Comp Plan amendments, and other important business for the Town. Those activities could “grind to a halt,” if the Planning Board is not fully seated soon, he said.

Al Cotton, Jr., read §255 from American Jurisprudence of Municipal Corporations Case Law, which says in summary, **if there is any inconvenience to the public as a result of a municipal office being left without a holder, the incumbent of the office shall continue in that position until the pending successor is elected.** We have Chairman, Vice Chairman, and Secretary to fill, he said. Under the current Town rules, officers may serve two consecutive years. Each of our current officers has finished the first of their two-year terms. That makes each of our current officers eligible for reelection.

Town Planner Christine Grimando said it is her understanding that alternates cannot be officers, but they can vote. A person cannot nominate himself.

Motion: Lew Stowe said, I’d like to make a motion that Todd Frederick be the chairman of the Planning Board for the 2013-2014, one-year term. Dave Woods seconded the motion. It passed 4-0.

Motion: Lew Stowe said, I’d like to nominate David Woods for Vice Chair of the Planning Board for the 2014 year. Todd Frederick seconded the motion, which passed 4-0.

Motion: Dave Woods made the motion that we nominate Lew Stowe for secretary of the Planning Board for the current term of 2013-2014. Todd Frederick seconded, and it passed 4-0.

Beachwalk at Long Sands 27 Paul Street, Map & Lot 0094-0086-B. Preliminary Review for a Minor Subdivision

Christine Grimando said she checked to see if 6.3 is complete, and found that all items had been addressed. The frontage road does not have to meet public or Site Plan Subdivision road standards, the requirements for which are not clear. There is an open space requirement that hasn’t been addressed. Wells and protective radiuses have to be discussed now or later per 6.3.24.2 for full septic design as well as test pit data. The LPI has determined the soils are viable. The applicants have requested a waiver for stormwater. The applicant has requested the grading and landscaping plan be submitted at the end of the process, when they are requesting a building permit. There is a request to have Septic instead of Sewer.

Motion: Dave Woods said, I’d like to make a motion that we approve the Beach Walk at Long Sands, 27 Paul Street, Map & Lot 0094-0086-B, as complete for preliminary review for a minor subdivision. Al Cotton seconded. It passed 4-0.

Applicant spokesperson Jim Nadeau said well radiuses will comply with 100-foot requirement without any extra casing. There are good soils. We can do without the HHE-

200. The locations of septic do not have to be determined now. Their location can be a condition of the permits. It does not make sense to bring sewer in.

Fire Chief Bridges has directed the applicant to make a 14-foot wide road, with 2-foot side gravel slopes, and an additional foot of vertical cut, to be maintained by the Road Association. This road would allow fire equipment to move through the subdivision.

Chairman Todd Frederick opened the **Public Hearing**. **Bill Anderson** of Anderson Livingston Engineers showed an aerial with a 20% proposed open space through the power line easement. The space has a current recreational use as part of a trail system and is passable and in good shape. There are no specific habitat or plants on the property.

He said that the parcel is bowl shaped. Pre- and post-calculation will show an increase going off the site. The developer would prefer not to build retention ponds. This stormwater moves into a 10-acre wetland. The impact of the four lots on the drainage basin would be too tiny to measure. The location of the septic isn't known yet, and the number of bedrooms is not known. That affects septic design.

Rich Ciesowski, 36 Bruce Street, said communication has been excellent. He is interested in road improvements. He asked what kind of development might happen in the future about the other six acres.

Robert Rubin, 37 Paul Street, said he runs a business out of his house and is concerned about traffic flow. It is important to keep the road clear for emergency vehicles and for he and his clients to get through. He knows the contour of the land. It is not a bowl. Stormwater runs down onto his and other people's land at the bottom of the hill. I am concerned about clearing the land and putting four more houses there, he said. Accessory units might be put on those lots. Is the septic up to code? Many people on the road like it the way it is and are not looking for any improvements on it.

Bob Secone, 36 Paul Street, said the plans don't tell what or where houses are going to be built. The Planning Board is going to decide what the builder is going to do. Can changes be made after that approval? Will the public have a chance to find out what is going to be built there, including the septic system, if additional dwellings are allowed? Could the driveway cutouts and open space be made before construction so the neighborhood cars can continue to come and go? Having the CMP easement used as open space and as a pathway would invite four-wheelers there. That would deter new homes.

Mike Cooper, 28 Paul Street, across the street from Lot 3, is concerned about what is planned for the other four lots. Businesses? Condos? I think these four single homes might blossom into something else. The chairman closed the **Public Hearing**.

Lew Stowe said he is going to be insisting on monuments on the corners of each lot. Jim Nadeau said that State statutes allow us to put them in after final approval. Christine Grimando said there is a monument requirement in 6.4.

When the building location is identified within the building envelope and the selected leach field test pit is identified, the permittee would be required to make the grading plan from the driveway in. It is logical to do that at the time of permit, Jim said.

Todd Frederick asked why Sewer was taken right off the table. Dave Woods asked for details of lengths of pipe and slopes. He also wants to know the cost benefit of Sewer vs. Septic. Municipal sewer would be a better avenue in a cost effective fashion. This is in a sensitive area, close to Long Sands. There are MS4 water quality issues. Jim Nadeau said that is part of their final submission. Dave asked if that could be frontloaded. Todd said he would also like to see the cost benefit--how much pipe and the cost of connecting. It would help the board make its decision. How many homes could potentially tie into that line?

Jim Nadeua said for the record, MS4 is currently not in place for York. If it were, we would address it. If this site had only one passing test pit with one reserve, I could see the argument for sewer, but there are many passing test pits.

There are restrictions about slope for certain distances in driveways. We don't come close to those fill restrictions, he said. We don't know where the houses will be located. If they are located in the designated envelope and the envelope comes from the Code Office, which sees it as a condition of the permit, we say we want to deal with it at the end.

Chairman Todd Frederick and Town Planner Christine Grimando reviewed the 6.3 checklist.

- 6.3.1 Reserve
- 6.3.2 Boundary Survey: **Ok**
- 6.3.3 Existing Conditions: **OK**
- 6.3.4 Natural Features: **OK**
- 6.3.5 Impact Statement **OK**
- 6.3.6 Proposed Development **OK**
- 6.3.7 Grading & Landscape **Taken off the Table**
- 6.3.8 Traffic Impacts **OK**
- 6.3.9 Deed **OK**
- 6.3.10 Proof of ownership **OK**
- 6.3.11 Easements, Rights of Way **OK**
- 6.3.12 Phosphorous Pollution **N/A**
- 6.3.13 Scenic resources **OK**
- 6.3.14 Historic resources **Waiting for HDC letter**
- 6.3.15 Watersheds **OK**
- 6.3.16 Habitat blocks **OK**
- 6.3.17 Streets and roads **OK**
- 6.3.18 Reserved
- 6.3.19 Lot lines and acreage **OK**
- 6.3.20 Public use **N/A**
- 6.3.21 Reserved

- 6.3.22 Flood hazard and 100-year **N/A**
- 6.3.23 Reserved
- 6.3.24 Sewage disposal **Pending**
- 6.3.25 Water Supply **OK**
- 6.3.26 Fire Chief **OK**
- 6.3.27 Stormwater drainage **Pending**
- 6.3.28 Sewage & drainage **N/A**
- 6.3.29 Markers for layout **OK**
- 6.3.30 Sight distances **OK**
- 6.3.31 Reserved
- 6.3.32 High intensity soil survey **OK**
- 6.3.33 Traffic analysis **N/A**
- 6.3.34 Waivers **Waiver from Public Sewer**

Dave said this is a residential subdivision in the GEN-3 zone. It should be a condition of the deeds, residential plans, or the findings of fact, that when this is subdivided, the only thing that can be built here are residential dwellings. Jim Nadeau said to the contrary, one abutter who testified tonight has a business operating in the neighborhood. Jim offered to go through a checklist of GEN-3 uses and eliminate the ones that could impact the neighbors negatively.

Bill Anderson read two notes that are being added to the plan. Note 7, "The owners of these four lots will maintain the section of Paul Street directly in front of the lots along with the existing Owners Association to maintain the new 14' wide road and clearing limits as shown on this plan, in summer as well of as in winter." Note 8, "On the section of Paul Street from Ridge Road to the trail route, the existing vegetation will be trimmed back as much as practical.

Christine read these conditions of approval:
the septic HH2 details rolling over
more sewer information
grading and landscaping plan additional information
stormwater management proposal

Motion: Al Cotton said, "I would make the motion with the provisions that Christine just listed and has written down." Dave Woods seconded.

Amendment Lew Stowe clarified that preliminary approval is given with four conditions listed above.

Vote: The board voted unanimously, 4-0.

York Colonial Center. 4 US Route One. Map & Lot 0086-0001. Preliminary review of a site plan and subdivision for a building with retail and office space on the first floor with apartments above

Christopher Badeau is the architect for this office/retail-below and apartments-above subdivision. He planned to speak on these issues: how affordable housing piece will be assured into perpetuity; how the turning radius problem has been solved; how, since the buildings have both septic and sewer capacity, uses have been set; how walkways and seating areas for better pedestrian circulation have been added; how the Kittery Water and Sewer deal is approaching finalized status; how easements will be in place before final review; and how the proposal for the 10% open space is ready.

His associate had tried to reach the York Housing Authority twice and his calls were not returned. Christopher Badeau suggested that the Board of Selectmen review whatever documents are available to determine eligibility for the housing.

There has been a change to the rear parking layout and turning radiuses. Parking spaces have been removed. That allows access for fire trucks. He has a Fire Chief letter of approval. He also showed the new outside walkways that have been designed. The drainage swale runs round the south side of the building to the wetland. The tenants have free access to the building from the rear parking lot.

He showed the rear elevation. It would become one story higher (four) than the front because of the low foundation, he said. There are five apartments under the fourth-story roof. Lew Stowe asked if the height is within the 35-foot level. Mr. Badeau explained his measurements. Lew asked to see the calculation.

At the last meeting we described a septic system for 2,000 gallons per day, calculated by Albert Fricke. For this submission, we have introduced an engineered septic system. Based on dry uses, we can keep the original design, but an engineered system can double the capacity, if a tenant, like a restaurant or fitness center, requires more. Site evaluation and septic designer **Albert Fricke** then went to the easel and showed photos and diagrams. He said a wet use, that potentially handles 4,000 gallons per day as an upper level, would require a more expensive engineered or controlled system. A pre-treatment, filtered, aerobic system, like Oxypro, put in the basement of this building would take wastewater and turn it to rainwater quality. The leach bed would be downsized by 90%.

Chris Badeau asked if the board would allow a condition where he could start with the smaller system and come back to the planning board if the use changes. Christine Grimando said different uses are acceptable, but we have to have the maximum gallons now. Dave Woods asked for a spreadsheet showing different tenant levels and differed wet and dry uses, to show the square footage load on the building.

Motion: Dave Woods moved we extend the meeting to 11:00 and not later. Al Cotton seconded, and the motion passed unanimously, 4-0 with no discussion.

Christopher Bandeau said that a condition of the approval would be that, before he could actually construct the foundation, he would have to connect the abutting restaurant to the sewer system. The property owner wants to make sure we don't dig up his disposals. There will be an agreement that is referenced on the plan set.

A waiver exists for zoning and planning. The 10% open space for a subdivision will possibly be based on a contribution to a fund. Is this actually a subdivision? Christine Grimando said that this is technically a subdivision by State and Town law. Lots or units with more than four lots created within a five-year periods constitute a subdivision.

Mr. Badeau showed an area of open space that is large enough to meet the criteria of open space. Lew Stowe said that that set aside land would satisfy the requirement.

Public Hearing

Priscilla Cookson is concerned about the size of the roof and the amount of impermeable space abutting the wetland. How does that apply to MS4 in the case of a large storm-water event?

Pierre Pelesis owns and rents out the abutting restaurant. Mr. Badeau has discussed connecting the sewer and patching the front of the parking lot, but that has not been discussed with the tenant. It has to be done on a slow day at a slow time, so the business of the restaurant is not affected. There is an opening in front of Route 1 that has to be graded. Chris Badeau then said that a trench was dug. He lined up a contractor, who didn't have the proper equipment to finish it. Dean Lessard asked that the edge of the right of way would be ground. A contractor failed to do the job (yesterday) because of the weather. Mr. Katuso told the restaurateur, Mr. Holler, he would tell him when the work would be done within the requested time period.

Bill Holler, who runs the restaurant, wants communication to open. The 140-foot trench was dug in front of the restaurant the third of April. This is the second week of July. The dialogue was shut down by Christopher Badeau the moment they dug the trench. The diggers planned to pave within a couple of weeks, when business was slow. Now is the middle of July, and they can't call and say they are going to come in. I shouldn't have to lose \$5,000 a day to let them pave it, unless they want to pay me. There has to be communication about the sewage, too. All I'm looking for is communication.

Dave Woods said the Board could ask for three-weeks notice and insist the job is started and completed within a certain amount of time. Penalties could be charged, if the deadline is missed, as a condition of the approval.

At 10:58 Todd Frederick summarized the requests the boards gave the applicant: waiver requests; septic matrix; proposed plan for the open space; record of affordable housing; stormwater plan; and calculation of roof height. Christopher Badeau said he has the availability letters from the utility companies.

Other Business

Upcoming meetings will be held July 25 (Jellison), August 8, August 15, and August 22.

Adjourn

11:08.