

York Planning Board
Thursday, June 12, 2008, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Glen MacWilliams began the six-hour meeting at 7:00 by determining presence of quorum. Beside Glen MacWilliams, Vice Chairman Tom Manzi, Barrie Munro, Lew Stowe, and alternate Todd Frederick were present. Dave Woods was absent, and Todd Frederick was asked to vote in his place. Town Planner Christine Grimando represented planning department staff. Patience Horton took minutes. The meeting 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

Terrance Parker discussed landscaping changes at the Anchorage Inn Annex. A contractor in the annex area with substituted plants that were not specified in the plan. There were minor discretions between what was planted and what had been specified. Hydrangeas had replaced Lilacs. The changes were most likely due to availability. At the request of the fire department, a hedge separating the Anchorage property had been replaced with an evergreen hedge.

Motion Barrie Munro moved to accept the changes as presented and discussed. Tom Manzi seconded the motion, which passed, 5-0.

Title of Petition here

With all the necessary Lot/Map Info

Walter Woods discussed LedgeWood Park at 764 U.S. Route 1. The planning board had preferred keeping the natural ledge wall at the rear, but it did not come out that way, and a large retaining wall replaced it. Culverts under Route 1 were cut back farther from the road than approved. Two areas on either side of the structure were changed to accommodate the condensing and air conditioning structure. The top parking lot had to be leveled. Dumpster locations were changed to be out of sight of a tenant. Walter Woods was not sure if the dumpster had to have a gate. Barrie Munro answered that screening is required, if it is seen from Route 1. By Article 6.3.1.6, the dumpster has to be landscaped and screened. Barrie Munro also asked for an as-built and said the as-built would have to be recorded. Walter Woods described other changes. A natural, raised "peninsula" in the parking lot was planned to have curbing around it, but instead he asked to remove it altogether to better facilitate snow removal. He showed photographs of most of the changes. A staircase had been added for access to the backside of the property. This was not approved ahead. The need for it was realized when the adjoining retaining wall was constructed.

Glen MacWilliams told Walter Woods the importance of getting approval before things are constructed. Walter Woods asked for the plan note concerning temporary occupancy to be removed. All the regulations have been met, he said. Glen MacWilliams noted that the findings of fact had not gotten back to the planning board.

Motion Lew Stowe moved to approve the retaining wall at the west side of the property and parking lot, to approve the new stair on the south side of the property, to approve the retaining walls at either end of the property, the relocation of the dumpsters, including the four-sided fencing, the installation of the rip rap, the change of the culvert at Route 1, and the removal of the little outcropped “peninsula” along of the rear wall. Barrie Munro seconded the motion, which passed, 5-0.

Minutes

The Minutes of May 22 were reviewed. Several changes were made, the most pertinent of which was the description of the York Harbor design review application process. The percentage of the standard runoff in a 50-year storm remained a question that was to be further researched.

Motion Tom Manzi moved to accept the minutes as revised. Lew Stowe seconded the motion, which passed, 5-0.

Public Hearings

Highland Farm Phase 2, 1 North Meadow Lane, and 250 Cider Hill Road. Map & Lot: 0090-0029-A and 0090-0030. Request to approve revisions to the General Declaration of Covenants, Restrictions and Easements for the Meadows at Highland Farm, Phase I subdivision.

Attorney Hope Jacobson and applicant Steve Woods were present. Hope Jacobson said the Trust for Public Land (TPL) has an option to purchase both Phases 1 & 2 of Highland Farm. The planning department had received a letter of May 28 with a request to postpone the Phase 2 application until June 2009. At that time the applicant wished to return, if necessary, to have the application reconsidered. If so, a full presentation of the history of the application would be given for the benefit of staff and board members who had not sat through the process of hearings. Glen MacWilliams suggested *tabling* Phase 2 (not postponing, as they had requested). Tabling it would allow them to bring it back when they want. Postponement, on the other hand, would have a specific deadline. Hope Jacobson specified that she does not want to have to begin over with a new submittal. It tabled, she said, it would be the same application. Glen MacWilliams said tabling takes the application off the table. Hope Jacobson said starting over would adversely affect the plans, which are grandfathered under prior ordinances. Glen MacWilliams recommended tabling the application. Barrie Munro said that the application is in the preliminary plan stage and that final plan review can if the Board wishes, make changes to matters agreed to in the preliminary stage. Lew Stowe said a date has to be put on the reconsideration, or it will be killed. Hope Jacobson said she could perhaps look to September. In August, TPL will tell them if the proposal is going to go forward Barrie Munro reminded the

Board that the voters had approved the Town's monetary contribution to the proposed land purchase.

Motion Todd Frederick moved to postpone the Highland Farm application until the September 11, 2008 meeting. Tom Manzi seconded the motion.

In discussion, the redlined May 28 version of the Declaration of General Covenants was referenced. The applicant has sold Lot 14, the house that is separate from the meadow portion of the property. Going through the declaration of general covenants, Maureen McGlone outlined the changes. If the trust or another entity takes title to Lots 1-13, the declaration can be terminated. That would remove Lot 14 from the restrictions of the declaration. Barrie Munro said the discussion was becoming confusing, and the outcome has many different possibilities. Lot 14 should be part of the work to be discussed at the September hearing. At that time, a representative of the Trust for Public Land can explain whatever would be necessary.

Vote The motion to postpone until September passed, 5-0.

York School 469 U.S. Route 1, Map & Lot 0048-0021. Application review of proposed changes to the existing parking lot.

School Superintendent Jim Amoroso and engineer Jim Zantacs presented a follow-up for their hearing presented last fall, in 2007. They wish to change the entrance onto the property in order to slow traffic passing onto or through the property. At first, the applicant wanted to close the southern entrance onto the property. The board recommended keeping that entrance open and have a landscaped island in place to slow traffic. Jim Amoroso said the abutter, Dwayne Jellison, who has an easement on his property, prefers the older plan (southern entrance closed). Jim Amoroso was offering a compromise of closing both entrances and opening one entrance in the middle.

Jim Zantacs asked for a conditional approval that the final plan and details of landscaping and certifications would come later. Glen MacWilliams answered that the applicant should come back with a certified landscape plan. Jim Zantacs said the school department wanted an approval that evening. That would mean approving the old plan and then come back with field changes, because, the school department has to make sure there is an agreement with Dwayne Jellison. Glen MacWilliams said they can submit the application again, and they can come back when they know what they really want.

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

Tom Boyle of Pierce Atwood, a law firm specializing in environmental land use law, represented Bayberry. He hoped to reach a determination of completeness, per 5.22. of York's regulations in order to move onto a substantive review. Maureen McGlone of Merrill Palmer came forward to discuss the completeness issues Town Planner Christine

Grimando had forwarded Maureen McGlone on April 29. Maureen McGlone talked about the Bayberry's 18 parking spaces located in the Cottage Place property, for which there will not be a landscaping buffer. There is no vernal pool found on the property. The requested boundary survey had been submitted. The existing conditions plan was included in the packet to Christine Grimando. Decreasing the restaurant size reduced the required parking. The net developable per 6.3.19 had been calculated. The site distances per 6.3.30 are part of the traffic plan. She said her group is in compliance with the high water table required on the plan, per the survey requirement. The fees that were not previously submitted have been submitted. Building elevations previously not submitted have been submitted. Per 6.3.16, the habitation location maps that were not previously submitted had been brought this evening. Information about the runoff potential had also been submitted. Christine Grimando agreed that every requested had been submitted. Tom Boyle again said the applicant was seeking a completeness determination. Lew Stowe said the building of Walgreens does not include details about the other two building. Maureen McGlone said information about the drainage and parking for those two buildings were included in the package with everything else, but not the elevations. Glen MacWilliams said he did not think the elevations were necessary for the preliminary per 5.3.6.

Motion Barrie Munro moved that the applicant has met the requirements of §5.3.6 and that the application, as submitted, is complete for purposes of review. Tom Manzi seconded the motion. The motion passed, 5-0.

Attorney Tom Boyle said he looked at the details of the permitting history regarding the prior fill activities, the dates for which were 1996, 1998, and 2000. The fill was intended to bring the area up to road level. In 1998, there was an approval issued to "Dearborn" to store things relating to building the hospital. In 2000, a permit was issued to make the property level to the road. Tom Boyle said he has copies of all the permits. Barrie Munro said responsibility for the permits does not mean they were properly executed. Glen MacWilliams agreed that the whether or not the permits were complied with is not really known.

Dave Latulippe of the Richman Company, the developer, reviewed issues of the April memo from Christine Grimando as Maureen McGlone already had. The 18 parking spaces are indicated as Bayberry property in the Cottage Place declarations. The habitat study has been completed, and it had been forwarded to Christine Grimando. Christine Grimando said entrance drive-in, the loading area, and the wetland area along the north entrance are the remaining substantive issues. The setback per 5.1.5.2 would depend on what type of structure the "street" through the property is. It had been settled that it is a driveway, and not a parking lot. Tom Boyle asked for agreement that the wetlands plan is acceptable. Glen MacWilliams asked for better plan. The board agreed that the drive-ways are in accord with the ordinance.

Al Palmer of Gorrill Palmer engineers discussed storm water. He had met and made a proposal to Dean Lessard, and were waiting for a response from him. Al Palmer, Dean Lessard, and Christine Grimando had planned to meet and discuss it. Barrie Munro said

all the water that flows off the Bayberry property that does not go into the ground goes south and southwest toward One Flintrock Drive, the home of Mr. Stocks. That is the location of the culvert. If that output could be rerouted to the access at the upper end of the cul-de-sac, then the Mr. Stock's problem would go away. Why can't that be done? asked Barrie Munro. Glen MacWilliams said the despite the overflow pond the applicant recommends, the water comes through the overflow. It doesn't matter were it goes. It has to fit with what happens off-site, with what is down stream. He said he had no problems leaving the overflow where it is planned. Gorrill Palmer is responsible for controlling the output, said Barrie Munro. We are trying to find a way that will satisfy both the abutters and the ordinances. We want assurance. Lew Stowe asked about the Gillespie report.

Al Palmer talked about the maintenance of the Stormwater system. State regulations say that inspection documentation of the system has to be adhered to every five years. Greg Novak in Dover will conduct that. He will also be looking for debris. Glen MacWilliams noted the landscaping had changed. Dave Latulippe saying that the runoff will not increase. He said that the Cottage Place development, which includes a 50-foot buffer between the Cottage Place and the houses, was doing it to the letter. It included a 50-foot buffer between Cottage Place and the house behind it.

Cynthia Thayer, a certified geologist with Gillespie, answered about ground water in the area. Borings were done several years ago, and then later, 18 more were added. The geo-technical report, the soil profile, shows topsoil in the fill layer and then clay layer under which there is a granular material like silt. No bedrock was found. The ground water is found at between three and eight feet down, depending on the time of year. The flow directions will go from the main entrance, across the site, and to the south and southwest toward Flintrock Drive. There are not apparent changes in the flow. The ground water is routed toward the storm water pond. The groundwater won't infiltrate the surface. The granular material allows slow infiltration. The abutters had spoken about the increase in flow around the fill that had been placed on the Bayberry property. They spoke about high ground water that made the lawn soggy and in some instances made the grass difficult to mow. Her company had gone to USGS and looked at the historical levels in York County. Between 1996 and 1999, there was higher than usual ground water levels. Cynthia Thayer showed a chart illustrating the cyclical trend. There was a drought until 2006, and then the Patriots' Day storm and then the Mothers' Day storm caused an increased. She showed on the chart that during the periods when there was more water, the intensity of the runoff increased. "Developing the site will improve the situation," she said.

The chairman opened the **public hearing**. **Katie Baldwin**, the owner of the proposed Walgreens property, said she had not been given an opportunity to respond to things said about her family during earlier meetings. During the last meeting, there were attacks against her family and her deceased father, and they were unwarranted claims. The focus in this meeting is on the development, and not attacks on her family or her family's business. Many who said negative things never met her father, and the words were based on

gossip. She asked the planning board to keep this out of the meetings and focus on the business at hand.

Walter Ziobrowski described many things he had at previous planning board meetings, including the history of the permits for the Walgreens and Cottage Place properties, ground water, how his house shook, and the Cottage Place bowl-shape parking lot that spills onto his property. A pond was filled in. Per 6.3.7, pipes should be put in to run water all the way to the river, minimizing surface water. He has issues with headlights, a potential liquor license at Walgreens, mosquitoes in the retention pond, and the need for an aerator in the retention pond. Glen MacWilliams closed the public hearing, which ended the application hearing, as well. Further review was postponed till the next review meeting.

York Community Service Association, U.S. Route One, Map 94, Lot 19, Route One Application. Scott Berger, president of York Community Services Organization (YCS), described the current, spread-out locations of YCS. The food pantry is located on Woodbridge Avenue, and the thrift shop is in Cape Neddick. The new facility will contain all the services the organization does. JoAnn Fryer of CLD Engineers gave an overview of the proposed property at the intersection of Route 1 and Old Post Road. The current building is non-conforming. The new building would conform to all setback requirements. The 39 parking spaces with three required handicapped spaces, also meet the requirement. The project will require waivers due to the large ledge outcrop in the back. A special driveway phase will be incorporated for the benefit of people leaving the parking lot. The parking setback has more setback than the prior one. JoAnn Fryer went through Town Planner Christine Grimando's memo of June 6, 2008. In response, JoAnn Fryer explained how water moves across the property. The proposed design would treat the water by sending it through an emergency spillway.

Architect Scott Fiorentino described the mix of material and the natural lighting he strives to bring the building with his design. Planning Board Chairman Glen MacWilliams opened and closed the **public hearing**. No one came forward to speak.

JoAnn Fryer explained to Lew Stowe that trees are to be planted on the berm near the swale. She read from the impact statement. The parking might be a short a couple spaces. Lew Stowe asked about the parking for the thrift store and food pantry. JoAnn Fryer talked about the shared parking between the thrift store, family store, and the function hall all going on at different times. Comments were made about aspects of the application. The soil evaluation should be waived. Barrie Munro said given the 30-foot setback and given the buffer and landscaping, "it passes muster." Lew Stowe asked for more creative landscaping and a description of what the plantings will be. Glen MacWilliams asked to see what it would look like from Route 1.

Motion Todd Frederick moved to waive the high intensity soil survey. Barrie Munroe seconded the motion, which passed, 5-0.

Barrie Munro requested to learn where the water goes when it leaves the culvert.

Atlantic House, Two Beach Street and 4 Main Street. Map & Lot 0024-0044, and 0023-0008. Application for Amendments to an approved plan.

The hours of operation at Blue Sky on York Beach at the Atlantic House should be allowed to expand, said JoAnn Fryer of CLD Engineering. As well, there had been a change of use for one of the condos. A narrative about these changes had been submitted to the planning board. The restaurant would open no later than 7:10 A.M. and close no later than 2:00 A.M. The original traffic survey should be valid in accompanying these changes. As for parking, to get approval for the original application, 31 parking places were shown for the employees. An addition lease of 40 spaces provides parking for lunchtime patrons. Lunch patrons are imbedded in the area. They are from traffic that is already in the area. JoAnn Fryer went over the numbers calculated for the parking spaces.

Peter Dunfey spoke, representing the owner of a condominium in the Atlantic House. That owner wants to run a spa, because her current location is temporarily closed. Once the occupancy permit is issued, she will revert this back to its original use.

The **public hearing** was opened. **Bill Thompson** of the Whispering Sands gift shop read a letter from the property owners at York Beach supporting the comp plan about how parking should be addressed. The letter indicated that ordinance review and change for York Beach Village should be halted pending resolution of parking, drainage, and infrastructure concerns. The parking and drainage studies have to be completed, the letter said. Also, the infrastructure should focus on other business. Bill Thompson said the parking exception is wrong. Signatures on his letter supported this as a letter from many residents of York Beach. Bill Thompson thanked Don Rivers for finishing the Atlantic House renovation. He congratulated Lynda Shier for being world-renowned and for putting her restaurant in York Beach.

Sandra Wilson of Sandy's Purple Palace has been in her location since 1946. Every day she gets to work at 7:00. There is no parking during the season.

Bill Roche of 6 Gulf Street said the Atlantic House was once an eyesore. The changes have been an advantage to the community. Blue Skies was to be an evening-only restaurant. The zoning for the area was fair and well thought through for the mixed-use building. The Atlantic House has not met the requirements of the plan notes. He read several examples from York Planning Board Minutes. Steve Burns was quoted saying there would not be additional restaurant hours. At one point, JoAnn Fryer asked for a waiver of parking spaces because it was an evening-only place. Everything was in terms of evening only, said Bill Roche. Another traffic study has to be done. It was impossible to count the pedestrians during the last study. He described the loading dock that was never power washed, partial signage that has only recently going up, and incomplete landscaping. He showed a photo of overflowing dumpsters. When it is hot and humid, he said, there are flies. "The petitioner is making a mockery of this town."

Steve Passanisi of Gulf Street described what it is like to live behind “this development.” He showed a photo of an impact barrier. Deliver trucks are jumping the curbs to go down Gulf Street to make deliveries. There is the danger of their hitting the gas pipes. Plus, he continued, the fire lanes are blocked. There are public safety issues, including for the house behind Surfbreaker. The Atlantic House should have a mechanical gate. The serious safety risks would be eliminated in keeping with the conditions of the plan notes.

Harold Anderson, a principle of the Atlantic House, said he has no ties to Blue Skies. Last year, an average of 113 people ate at the restaurant. The people who are at the Beach are patrons of Blue Sky. It is an imbedded crowd. The parking lot behind Wicked Good was full last summer six days a week. He apologized about the trash problem. The \$35,000 trash compactor did not work correctly, so it was broken down and taken away. The problems are from the start up, he said.

Bill Burnham of 1 Main Street and 3 Beach Street said he had been a Beach resident for a long time. At one time he was the chairman of Ellis Short Sands Park. He had gone on the site walk with Christine Grimando reviewing the area about to be re-zoned. He had gone to the organizational meeting at the fire station. The Atlantic House came with a price, and the people of York Beach are paying the price.

Joe Lipton of 7 Ocean Avenue said the parking studies were done over a four-hour period on July 25 between 4:00 and 8:00 P.M. Maybe there should be a parking impact fee.

Glen MacWilliams said the question at hand is whether you are in compliance with the original plan. The board cannot determine if you are in compliance. The issues will have to be brought back. The board is not going to approve them right now. Barrie Munro said that things should be turned over to Code Enforcement to determine if they are in compliance or not. Glen MacWilliams asked, how many units are approved and how many are operated. Are there any outstanding code violations? Barrie Munro said if you’ve failed to comply with plan notes, proceed no further.

Motion Barrie Munro moved to proceed no further with respect to the applications before us by the Atlantic House until code enforcement has determined that the Atlantic House is not under any violations of the plan notes, including trash handling. Todd Frederick seconded.

Don Rivers said his group had spent \$100,000 of Gulf Street with the brick sidewalks, granite, air conditioners for trash, plus the buried gas tanks. An elevator was put in so there would be a recessed dock. The board should look at the applications. They want to be open for lunch, of course. Three million dollars have been spent to this point. There are enough parking spaces for the requirements. Summer is here and we want to open for lunch, and she wants to open a spa. We think we should get this now, said Don Rivers.

Barrie Munro said the hour is 12:25 A.M., he recommended that the board picks up the application at the next opportunity. That would be July 10. Barrie Munro then withdrew the motion.

Tom Manzi asked how long the temporary use would be. Barrie said the use is a permitted use with this structure. It is a permitted use as long as the parking is permanent. Bill Roche said that the abutters were not properly notified. Lew Stowe agreed that proper notification was not given.

Motion Lew Stowe moved to set these Atlantic House matters aside until the next meeting, July 10. They will be on the next meeting's agenda as separate line items, and proper notification will be given. Tom Manzi seconded the motion.

In discussion, Glen MacWilliams asked how to follow up on the issues that rose tonight with regard to the plan notes. Other issues include splitting the condos up, abutter notification, code violations, and occupancy permits.

Vote The motion passed, 5-0.

New Business

Two amendments for the Comp Plan are coming up this summer, said Christine Grimando, one meeting in July and one meeting in August. There is also a site plan subdivision amendment. The Comp Plan amendments have to have public hearings.

Barrie Munro reminded the Board that the newly formed York Beach Village Zoning Committee would meet on the 24th and that it would be appropriate for the Board to give the new committee instructions at its meeting on the 26th.

Woodside Meadow Estates Mylars were signed.

The business adjourned at 12:50 A.M.