

York Planning Board
Thursday, May 8, 2008, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Glen MacWilliams began the four-hour meeting at 7:00 by determining presence of quorum. Beside Glen MacWilliams, Vice Chairman Tom Manzi, Barrie Munro, Dave Woods, and alternate Todd Frederick were present. Lew Stowe 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

Engineer **Bill Anderson** handed out changes to the **Anchorage** approved plan, including the shape of the pool, the addition of a walkway, and the revision of the patio based on new shoreline demarcation. The pool shape would change from curved to rectangular, and the hot tub would be moved. The walkway along Mitchell Street would be ripped out and replaced with porous paving stones, a sample of which Bill Anderson handed to the board. A new survey of the shoreline (April 20, 2008) allows the patio to expand toward the ocean.

Motion Tom Manzi moved to accept changes consistent with the drawing of May 8, 2008. Barrie Munro seconded the motion.

In discussion, Bill Anderson showed changes of the shape of the pool. The scale of field change plans was discussed.

Motion Barrie Munro moved that future field changes would be better, if they were all in the same scale with the original plans. Todd Frederick seconded the motion, which passed 5-0.

The second field change was about planting at **Jefferd's Tavern**. **Terrance Parker**, of Terra Firma, described changes on the York Street side of the building, where three spruces would replace three willows. Dogwoods would be moved. A shade tree would be added in the courtyard. **Scott Stevens**, Director of the Old York Historic Society, talked about changes to the entrance.

Motion Barrie Munro moved to accept changes to the plan as discussed and presented. Tom Manzi seconded the motion. Glen MacWilliams asked to describe the "plan" as the "approved plan," a change Barrie Munro accepted into the motion, which passed, 5-0.

The board discussed Certification Prior to Occupancy, per Article 18.1.7 of the Subdivision and Site Plan Regulations. Dave Woods noted that there is no allowable time limit for completion after the Mylar is signed, suggesting that if work is not completed in six months, the applicant should have to come before either the planning board or code enforcement. Glen MacWilliams cited Sections 11.1.3 and 11.1.2 for compliance of final completion.

Minutes

Minutes of the **April 10, 2008** meeting were discussed. Todd Frederick said the motion to waive Zoning Ordinance 6.3.13.4 with respect to vinyl siding on the American Legion Hall was made by Barrie Munro and seconded by Todd Frederick. The minutes did not record that correctly.

Motion Barrie Munro moved to approve the April 10 minutes as corrected. Tom Manzi seconded the motion, which passed 4-0. Dave Woods was not present and did not vote.

Public Hearings

Site Plan and Subdivision Regulations §9.3. Amendment to Subdivision Rules and Regulations Article 9, Streets, Storm Drainage Design and Erosion Control.

The public hearing was opened and closed. No one came forward to speak. Barrie Munro read §9.1 aloud, and said the last sentence clarifies what constitutes evidence of acceptance by the municipality of any street or easement.

Motion Dave Woods moved to approve the proposed Amendment to Subdivision Rules and Regulations Article §9. Tom Manzi seconded the motion, which passed, 5-0.

Site Plan and subdivision Regulations §7.3. Amendments to §7.3.1, specifically addressing grading and filling site requirements.

The public hearing was opened and closed. No one came forward to speak. Barrie Munro said the current allowance of 2,420 cubic yards of fill, which causes a 3-foot disturbance over one-half acre, could be cut in half to cause an 18-inch disturbance over one-half acre. In discussion Board members thought the number of cubic yards referenced was too arbitrary and the amendment proposal was referred to the Town Planner for further study. In closing Barrie Munro reiterated the need to establish a basis for requiring hydrology studies and reclamation plans.

Site Plan and Subdivision regulations §2.2.4. Amendment to make the number of public hearings required consistent with those required in Zoning Ordinance §18.15.

Barrie Munro said the people of York deserve a second public hearing for zoning ordinance amendments, though, unfortunately, at this time, the public does not seem to understand the consequences of not being involved in the process. The public hearing was opened and closed. No one came forward to speak, which Barrie Munro said was an example of what he had just described.

Motion Tom Manzi moved to go move §2.2.4 forward. Barrie Munro seconded the motion, which passed, 5-0.

Applications Reviews and Public Hearings

Highland Farm Phase 2. 1 North Meadow Lane, and 250 Cider Hill Road. Map & Lot: 0090-0029-A and 0090-0030. Continued consideration of preliminary review of a major subdivision.

Attorney **Jim Katsiaficas** of Perkins Thompson represented Steven Wood. A definitive option agreement for Phases 1 & 2 had been received from the Trust for Public Lands, the Kittery Water District, and the York Land Trust, as of April 9, 2008. He asked to have the subdivision application tabled until June 2009, with the right to come back to the planning board, if the agreements are not consummated. Barrie Munro asked Jim Katsiaficas what the consequences of the warrant failing would likely be. He replied that the warrant failing would be a serious matter. Both Chairman MacWilliams and Barrie Munro stated their belief that it would be good for the Town if the warrant were to succeed.

Chairman Glen MacWilliams was hesitant to extend the current postponement for the length of time requested. Todd Frederick proposed postponing the matter for a month from this meeting's date.

Motion Glen MacWilliams moved to postpone the Highland Farms application until the June 12, 2008 York Planning Board meeting. Dave Woods seconded the motion, which passed, 5-0.

Glen MacWilliams offered a **Q&A** session to the 10 young people in attendance. One asked for explanation of the prior hearing. Another asked how to spell "Katsiaficas."

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

Maureen McGlone, Gorrill Palmer Engineering Consultants, described the proposed 14,000 square-foot pharmacy and the future, accompanying 3,500 square foot (total) bank and restaurant, all to be developed by the Richmond Company. DOT had already approved the traffic-moving permit. Arrangements for access from Route 1 (two entrances) and from Cottage Place, public utilities, and parking for the smaller buildings were in place. The property line dividing the driving isle of Cottage Place has some parking spaces to be replaced with landscaping. Dave Woods discussed the property line swap as encroachment, and the engineer described the step as "reversed encroachment." Maureen McGlone addressed the applicant's compliance to the Findings of Fact. Tom Manzi asked who owns the development, and Maureen McGlone answered Bayberry LLP.

She said there are no vernal pools on the property. Snow would not be pushed into the wetlands or over the banks. Storm Water Compliance, a company from Dover, would conduct a test of the maintenance requirements of the drainage structures and the wet

pond. **Greg Novak**, of that company, described bi-annual inspection and maintenance, as required by the Maine DEP, which would include recording the status with pictures, following regulations, and presenting an annual report. **Dave Latulippe** of the Richman Company said if the system were well maintained, it would work well. **Al Palmer**, of Gorrill Palmer, identified troubled areas in abutting properties caused by a culvert out of Cottage Place that discharges onto Woodcock Lane before flowing behind those houses and less developed places. The Walgreens project is not going to contribute to those problem, he said. Twenty years ago, a fund should have been established to allow the town to use the funds to do periodic maintenance work as needed.

Maureen McGlone talked about oil-water separators and a pervious wet pond with a valve-like treatment area. Any potential for invasives would be addressed as a maintenance issue. She showed the expanded wetland pocket to the north of the property.

Architect **Mike Lasso** showed a photomontage of the streetscape, which he called the beautification of the urban fabric. He showed the Walgreens elevation featuring a gabled building with an ornamental corner/entry place. Different design themes would be picked up from surrounding buildings. Landscaping would ultimately mask the building over time.

Terrance Parker described how the subterranean chambers that hold storm water would affect the former the plan. There will be 22 trees in front. He went over the location and masking of the utility infrastructure, including electric, propane, and utilities pad.

The chairman opened the Public Hearing. **Walter “Butch” Ziobrowski** reviewed many issues he had discussed at the March 13, 2008, York Planning Board meeting. His riding lawnmower has, since the fill of 1991, become covered in mud during every mowing, and the blade has to be re-sharpened after every two mowings. Sinkholes had formed on his property from water mitigating under the surface soil, where there is a layer of clay. The report by soil scientists Gillespie & Associates had confirmed his description of the topography. The Cottage Place property is shaped like a big bowl, he said, that overflows and splashes onto his neighborhood. He discussed the original development of Cottage Place and the subdivision Butch Ziobrowski lives in. He had researched the original fill permits for that lot and said the actual act of filling the land came after the expiration of the permit. Did they adhere to §6.3.7, Storm Water Runoff, at that time? Will this applicant adhere to it? He said that the applicant group had not individually approached any of the abutters with the idea of understanding what the abutters want, and how, maybe, things could be rectified. He reiterated on the necessity of the planning board’s adherence to §6.3.7.

Abutter **Sheila McGovern** had contacted Chairman Glen MacWilliams by mail with her concerns and questions, which he read. When did York become urban? When did vacant fields become unattractive? Consider the carbon impact. Consider the wetpond as a breeding place for mosquitoes and the West Nile Viruses. What if the wet-pond becomes a place for snow storage? What if no effort is made to maintain the drainage system? What if the area becomes a haven for drugs and crime?

Alan Brown, a direct abutter, had spoken to the board March 13, 2008. When Ellen Baldwin had sold him his property near the proposed Walgreens land, he asked if the empty lot was developable. She told him it was not, because there were soil and water issues. He said that at the March 13 meeting, DPW Director Dean Lessard say the pond would inevitably fail and the only question was when. Alan Brown described how roots of trees on his property move with the flow of water and how the rising water table was beginning to kill some of the trees.

Linwood Wilson, 11 Woodcock Lane, said that at the March 13, 2008, meeting DPW Director Dean Lessard suggested relocating the pond closer to Route 1 to make it more visible. It could be dealt with quicker. Linwood Wilson said a landscaping vehicle had sunk 6 inches into his wet lawn. He said he was concerned about stagnant water and mosquitoes.

Robin Patten, 12 Woodcock Lane, said water is an issue at his property, too. He knows about the clay content from digging flowerbeds. He asked who will be left “holding the bag” when the area floods. Neither Walgreens nor the Town will. The abutters will be stuck with the stuff, he said. He described the owls and deer he wants to see return to the area again, if it dries out. The Gillespie report was confused about the fill being ripped out. It was not.

Todd Crawford of One Woodcock Lane, said the old growth pines have been thinned out because of the water movement. That has left Route 1 visible and audible. A gaping path between his home and Route 1 has made enjoyment of life and property difficult.

Paul Stocks, Two Flintlock Road, is at the bottom of the flow. He asked who will maintain the pond, if Walgreens moves in. If Walgreens runs pipes through his property, as they have offered to do, will he be liable for flooding the guy down the street? “It is great that they are wiling to help, but when they are finished, what then?”

Butch Ziobrowski said Cottage Place had originally asked for access through his property to maintain the culvert and drainage swale. When that condo association fell apart, he said, the un-maintained drainage site was left to fill with sand. This is the same thing over again. He asked if the Bayberry engineer, who proposes to fill 4,300 square feet of wetlands, is calculating the size of the area before or after it is filled in. Butch Ziobrowski asked the developer and board to come up with a solution.

The chairman **closed the public hearing**. He summarized the comments made by the different speakers. Tom Manzi said the lot is a legal lot, but the plot of land might be in violation. He discussed the status of Cottage Place and its boundary relationship with the Bayberry plot. Barrie Munro said it is worth noting and assessing the compression of the compacted soil that would take place during construction. He further said there is the presumption that a problem already exists, and a mechanism is needed to determine its extent and to measure the consequences of new development. Dave Wood said the board could require the developers to submit a water flow design for inspection visits twice a

year. Glen Macmillan said before preliminary submittal occurs, it would be best for the developer to talk to abutters and find a long-term agreement (perpetuity) on how to resolve the problems. If Walgreens leaves after five years, what are the people left with? Todd Frederick suggested turning to §7.1.9, how to address offsite perpetuity. Barrie Munro asked that the applicant note SR 9.8.8, which shall require a 25% surplus design capacity factor for potential increases in up-stream runoff. He further requested the applicant and the Board to pay particular attention to SR 9.8, Items 1 through 13.

Landscaping was discussed. Barrie Munro suggested having money put in escrow for a period of time to allow reevaluation and replacement of plants, if necessary. That approach was successful for a CMP application. Of the Walgreens elevation, he said the windows facing U.S. Route 1 are too high above the ground and out of proportion to the scale of the wall. He further stated that the height of the dormers should be increased to break the existing overly long roofline.

Town Planner Christine Grimando said the narrow sidewalk, which is not adequate for pedestrians, is not on the site plan at all. She said the landscaping improvement and cutting, the §9.8.11 Seasonal Water Table, and the required habitat map were not submitted.

Barrie Munro read a letter into the record from **Burton Lindscott** who lives at 28 Flint Rock Drive, dated May 2, 2008. With the letter was a picture taken during the winter showing the drainage ditch in the front of his house full to above the top of the newly installed culvert. The implication was that the system is already over-burdened and that new development would worsen an already bad situation.

Chairman Glen MacWilliams said the next meeting would continue the preliminary review. Dave Latulippe of the Richman Company talked about the order of the driveway, buffer, and setback. Dave Woods commented on removal of sand when sweeping out the parking lot, which should also be a no-salt zone.

New Business

- **Subcommittees. Planning Board subcommittee language for Planning Board By-laws. Review and vote on amendment language to the Planning Board By-laws.**

Motion Barrie Munro moved that York Planning Board approve Article 2, Subcommittees, dated 5/2/08. Tom Manzi seconded the motion, which passed, 5-0.

- The group talked about the site walk they had taken through the proposed **Josiah Norton Subdivision**, which would house 24 units. It was agreed that the next logical process step should be another Sketch Review to discuss what was learned during the site visit. With regard to cluster subdivision requirements versus conventional subdivision requirements for site planning, Barrie Munro cautioned the Board about the possibility that ordinance 7.6.1.C, if interpreted too strictly, could

result in developers preferring conventional subdivisions to cluster. This would be unfortunate in terms of the preservation of open space and other natural resources.

- The group talked about the potential size of the **York Beach Zoning Subcommittee**, which could have nine members or less. Glen MacWilliams said the time had come to publish the subcommittee requirements, have two members of the planning board review the candidates as soon as possible, and then bring those candidates to the board ASAP to move quickly for the warrant. Barrie Munro asked Dave Woods to chair the first committee. Tom Manzi supported the idea.

The meeting ended at 11:15.