

York Planning Board
Thursday, November 13, 2014, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum; Appointment of Alternates

Chairman Al Cotton called the meeting to order at 7:03. A quorum was determined with five people voting: Chairman Al Cotton; Vice Chairman Peter Smith; Board Secretary Todd Frederick; Lew Stowe; and alternate Amy Phalon, who was asked to vote as a full member. Town Planner Dylan Smith represented staff. Patience Horton took minutes.

Public Forum

No one came forward to speak.

Minutes

The October 23, 2014 Minutes were reviewed and corrections were requested.

Motion: Peter Smith moved to approve the Minutes of October 23, 2014, as corrected by Mr. Stowe and Mr. Smith. Amy Phalon seconded the motion, which was approved unanimously.

Field Changes

There were no field changes.

Application Reviews and Public Hearings

Peradventure, Peradventure Way

Map & Lot 0052, Lots 21, 21C, and 21D: Amendment of a previously approved subdivision to combine two lots into one larger lot with a portion of the land going to another lot

Town Planner Dylan Smith: 1)The note regarding the 5-foot wide easement should refer to it as a “pedestrian easement” to reflect easement language that was on the original plan. 2) A notation at the bottom of the plan reads “top of bank.” It is indicated by a line drawn in and was not referenced on the 1998 subdivision plan, so it should not be there. 3) The Board has to decide if the 1986 schematic plan is part of this application.

Applicant representative Bill Anderson: On the original plan, the Cliff Walk was called the “5-foot wide pedestrian right-of-way.” In the next revision it was called the “5-foot wide pedestrian easement.” On this plan, the applicant is calling it the “5-foot pedestrian right-of-way,” to reflect language on the original plan. 2) The “top of bank” was shown on the original plan. In this new plan, we show where the top of bank is currently relocated, moved because of erosion. That can be deleted.

Speaking into the Record, Applicant Attorney John Bannen explained that the Planning Board has to stay within its jurisdiction with regard to the 1986 schematic. The York Town Attorney has advised the Planning Board that these amendments don't impact the Cliff Walk at all. There is nothing about the Cliff Walk that has to do with this approval. There should be nothing to do with the 1986 schematic either as a note on the plan or in the Findings of Fact. The Cliff Walk is not impacted with this plan.

Lew Stowe responded: The 1986 schematic must be referenced in the Findings of Fact because it was important to the group that came in and discussed it. It is not to be referenced as a finding on the part of the Planning Board. With regard to the view easement, the applicant must go before the CEO to make sure that the easement exists. That is part of the deed process. But in this case, a neighbor has spoken up about the view easement. I would like to put that fact into the Findings of Fact.

John Bannen's response: "If that is the limited wording you are proposing, Member Stowe, that is fine with us."

Amy Phalon compared the different notations for the Cliff Walk on three different plans: On the 1986 plan, it was called, "Marginal Way, Pedestrian Right-of-Way." The 1998 plan calls it, "Foot Path." The current plan reads, "Approximate Location of Marginal path." She asked about the relevance of Note 7. John Gannon replied that Note 7 is meant to refer to the numbered notes on the prior plans. It has nothing to do with the Cliff Walk.

The Chairman opened the **Public Hearing**. **Ted Little** spoke on behalf of the Friends of the Cliff Walk. The Friends would like to have the 1986 Rubin Schematic with Cliff Walk notes referenced in the Findings of Fact. The 1986 schematic shows a 15-foot buffer that should be maintained. It is not maintained. That is a code violation. How can you approve the schematic unless you make a decision as to whether the wall comes down? We feel these points need to be clarified and cleaned up before approval can be given.

Abutter **Douglas Metcalfe**: The access driveway has been moved. Its current location suits him and other abutters where is. He asked the Board to consider the effect that changing the location will have on him. The original purchasing decisions were influenced by the location of the access. 2) The Protective Covenants (which he handed out to the Board members) indicate that he has the right to sue the owner of Lot 1 if the view easement is not maintained, which it's not. It also was a selling point. He asked that the Board, as representatives of the Town, consider the effect both these matters, changing the access and not clearing the view easement, have on him.

Peter Smith: The Planning Board has no jurisdiction over these types of things. We can put these concerns that came up during the hearings into the Findings of Fact, but they are otherwise outside the jurisdiction of the Planning Board.

Todd Frederick read from the View Easement section of Mr. Metcalfe's Covenants and Restrictions: "There shall not be erected or placed on said easement any structure, clothes line, pool, bench, vehicle, or tennis court." But, there is a driveway going through the view easement, Mr. Frederick commented. Drive a vehicle onto the access, and you have placed a vehicle to the easement.

Applicant Attorney **John Bannen**: That is why you have Paragraph 10. If somebody violates the covenants, then the rest can sue.

The Chairman closed the **Public Hearing**

Dylan Smith reviewed the corrections to the Mylars. 1) Metcalfe will be spelled correctly. 2) To mimic past plans, the word "private" will not be used to describe the 5-foot wide easement. 3) The note depicting the "Top of Bank," and the line that corresponds to it will be removed. 4) The words "approximate location" will be removed. 5) The expression "Marginal Way, Pedestrian Right of Way/Foot Path" will be the name for the Cliff Path on the plan.

Al Cotton reopened and then closed the **Public Hearing** for **David Chase**, a member of the Friends of the Cliff Walk. His point was that the issue of the wall on the west boundary is in violation to the agreement relating to the Cliff Walk.

Motion: Lew Stowe moved to continue the application to December 11, 2014. Todd Frederick seconded, and the motion passed, 5-0.

Anchorage Motor Inn. 265 Long Beach Avenue.

Map & Lot 0036-0096. The proposal is to add a small addition on the existing motel that will contain an elevator and stairway for ADA accessibility.

Dylan Smith's introduction: The profession stamp certification should be that of a P.E., who deals with actual improvements, rather than of a surveyor, which is how this is stamped. In Note 3, parking regulations required by the Town must be met. Landscaping for the green space should be noted on the plan. Note 4 states the stairwell and elevator will contain the same amount of space as the island to be converted into parking, but the existing condition and proposed conditions do not appear to match when they are measured.

Engineer Bill Anderson, Applicant Representative, presented the existing conditions plan and the location of the proposed 500-square-foot building that will house an elevator shaft. The applicant wants to keep the parking count and the impervious area the same. The method for doing this is to take an island and move it, which will maintain the parking.

The roof of the building adds impervious surface. To offset it with an equal area of green space, some gravel will be converted back to grass. This fulfills the requirement. The parking will be changed to meet Town specifications and still keep 20 spaces.

Motion: Peter Smith moved we accept this for review. Seconded by Amy Phalon, the motion passed, 5-0.

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

Peter Smith asked how “existing parking spaces are being converted to new green space which is the same size as the one being removed, You are not really turning existing parking spaces into a green space. You are turning it into a green space with a building on it.” He requested the language “on which the new building will be erected” to be added to Note 4.

Motion: Todd Frederick moved to waive the two-step process as outlined in our regulations. Seconded by Peter Smith, it was approved unanimously.

Motion: Peter Smith moved that we waive the 17-day requirement for receiving materials from an application. Amy Phalon seconded, and the Board approved unanimously.

Maine Coast Lumber Amendment 17 White Birch Lane Map & Lot: 0085-0020-B. The proposal is to review an after-the-fact amendment of an approved site plan for the expansion of a gravel area and other potential alterations around an existing building.

Dylan Smith introduced this application as a non-binding conceptual discussion in its earliest phase. It is an after the fact review, which the Appeals Board had referred to the Planning Board. Lot coverage on this property stands at 25.83%. GEN-1 coverage standards require a maximum of 20% lot coverage. The original application was approved in 1998.

Ed Brake from Attar Engineering presented an as-built plan showing current conditions on the site. Any change to the 1998 plan has to come before the Planning Board for a plan amendment. That never was done. There is a gravel road to Building 1 and a gravel area around Building 2. That gravel area is for access to the west side of Building 2 and access for fire safety. The Deputy Fire Chief had asked for 360° access around the building. There is a wetland down the middle. Everything in the southern part is in the Shoreland Zone, but it was not in a Shoreland Zone when approved in 1998. That is part of the discrepancy. The buildings are out of the flood zone. A re-vegetation plan for the area on the west side of Building 2 must be created and approved.

Emphasizing the hearing was non-binding, the Chairman opened a **Public Hearing**.

Abutter **Chuck Ott:** “I want the trees back.” During the Board of Appeals’ recent hearing, the attorney for the applicant agreed there are violations and said the trees would be taken care of. There is an idea that things can be kept the way they are for fire department access. Furthermore, the water that flows through there is used in his garden. He does not want it to be fouled. “Do not sweep this under the rug.”

Clark James, 68 Brixham Road, lives on the boundary line where the trees were removed. He doubts the fire department issued an order to remove the trees. He believes it was done after-the-fact as damage control after the trees were removed and buried back there. He (Mr. James) didn't believe any engineering plan was completed. The applicant wanted to increase the number of tenants and access to the back of the building, so he brought in an excavator, took down the trees and buried the stumps back there.

Abutter **Sarah Sanford** owns two properties at 8 and 13 White Birch Lane. Code Enforcement approved a gate by Building 2. She was not sure why the gate was moved, but this is very dangerous. Last week seven cars were waiting for the gate to open. It took 15 minutes to have the gate opened. It could be a tragedy if there was a fire. The turnaround at the gate puts lights into her neighbor's house.

Todd Frederick read (paraphrased) an email from **Mike Bridges**, which said, in this application, trees were removed and wetland was filled. There is a concern about the gate.

An overlay depicting -before and -after conditions was requested of Ed Brake. Al Cotton also wants to see a site walk arranged for the Planning Board and Code Enforcement together. The Board of Appeals has given twelve months for the property owner to address both violations with the Code Office and the Planning Board.

York Colonial Center. Four U.S. Route One. Map & Lot 0085-0001. The proposal is a revision to an approved Route One use permit including but not limited to, changes to architectural elevations and associated site alterations.

Town Planner Dylan Smith introduced the modified building layout and other site improvements. There will be 20 units in five mixed-use apartment complexes. The fifty-fifty split of affordable housing and workforce housing will remain. The square footage of business space will remain as before. There are inconsistencies in plan proposals and provided sheets. This hearing should be treated as a conceptual discussion.

Architect Christopher Badeau has modified the project from one large building to four smaller scale buildings with 38% lot coverage. Square footage in the retail/office space will remain the same. There are 20 apartment units, instead of 21. There are 62 parking spaces, including six handicapped. Ten percent of the units are handicapped accessible with handicapped parking close by. There is a phasing plan, with Buildings 1 and 2 being built first. The landscaping plan shows the shrubbery count remains the same as originally. The apartments and commercial spaces will have their own access through courtyards.

Todd Frederick: Per 6.3.13.3, all new buildings constructed on Route One must have their "best face forward." He asked how this fits the criteria. Applicant Attorney Bruce McLaughlin answered. It is best to interpret the provision without getting tripped up in the detailed language. Besides, Section 6.3.13.3 refers to, "All non-residential structures on Route 1." This is not a non-residential structure.

Engineer Mike Schlosser showed that very little of the grading and drainage is affected by the change of building design. One catch basin was removed and another was moved.

Christopher Badeau: There will be daily trash pickup proposed on the site. There are two sizable containers. Snow will be removed from the site during winter storms. Peter Smith recommended that, for safety, one parking space located too close to an entryway should be relocated. That space can go next to two other spaces behind the existing building, said Mr. Badeau. Landscaping would be change appropriately.

The Chairman did not open a **Public Hearing** because there was no one in the audience.

Lew Stowe requested that Town Engineer, Steve Bradstreet, review this project. Mr. Badeau requested his engineer work with the Town Engineer. He also hoped to have Preliminary and Final review held during the next meeting.

Motion: Todd Frederick moved to continue the application of York Colonial Center to the December 11 meeting. Peter Smith seconded, and the motion passed 5-0.

Other Business

Review designee option within Article 8, Section 8.3.11.4

Town Planner Dylan Smith: Planning Board has jurisdiction over f. and g. of §8.3.11.4, regarding Placement of Foundations. As part of that regulation, the Board has the option to appoint a designee to review foundation relocations, reconstructions, and replacements. The Certified Shoreland Administrator, rather than the Planning Board can do the review.

Al Cotton has appointed Todd Frederick to the Capital Planning Committee. At the second meeting, the Interim Town Manager laid out a framework on how requests are to be taken from department heads toward the Capital Plan. The Interim Town Manager has expanded the Capital Plan from 5-years to 10-years. There is a \$500,000 placeholder in this capital plan for long-range Planning Board/Comp Plan acquisitions.

Adjourn

10:33