

York Planning Board
Thursday, October 11, 2007, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Glen MacWilliams began the meeting at 7:00 and determined presence of a quorum. Beside Glen MacWilliams, Vice Chairman Tom Manzi, Barrie Munro, Dave Woods and alternate board member Lew Stowe were in attendance. Lee Corbin was absent, and Lew Stowe was asked to vote in her place. Newly hired Town Planner Christine Grimando was there, attending her first York Planning Board meeting. Community Development Director Steve Burns was also present. Patience Horton took minutes. The four-hour 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

Jim Hanley, of Engineering Alliance, spoke about the Rite Aid site at the York Village Business Center. Last time he appeared, he requested lot division for the complex, and the division was granted. He summarized other changes to the plan, proposing ponding around the out-parcel along Cider Hill Road, in addition to the catch basin already planned for the area. It would catch drainage floating down into the area. He also requested the addition of an electric service pole next to Route 91. The pole was proposed by CMP. As well, he requested that the subsurface propane tank be shifted about 15 or 20 feet from its original location. Fourthly, he asked for the relocation of an overflow berm creating a shorter outlet to the wetland. He informed that board that completion of the landscaping by the end of November would be impossible. Meeting the end of the growing season, as planned, must be shifted to landscaping in the spring.

Tom Manzi asked about the pyramid of earth that currently sits on the Rite Aid site. Jim Hanley explained that the compression caused by the dirt causes the water in the soil to drain out, making a better foundation site for the building. Glen MacWilliams asked about snow storage and was told that drainage slopes into the large catch basin. Lew Stowe asked if the water would drain onto the abutting, private property, and Jim Hanley answered no. He also explained that the transformer for the Rite Aid building had been proposed for placement underground, but Central Maine Power has changed that to a utility pole. Barrie Munro asked if the Town has any say about where poles go, and Steve Burns answered, no, they have to register with the Town Clerk, and that's the extent of pole placement notification.

Motion Tom Manzi moved to approve the amendments. Barrie Munro seconded the motion, which passed, 5-0.

As part of unfinished board business, Glen MacWilliams interrupted the Field Changes portion of the meeting to read a **Letter of Resignation from Lee Corbin** in which she stated that her leaving the York Planning Board was to take a second shift position at the National Passport Center. She would like to return to the board some day, if her circumstances change. Members of the board expressed gratitude for her four years of service. Thanks would be sent to her in a letter. Glen MacWilliams asked for a show of hands supporting the recommendation to the Board of Selectmen that Lew Stowe's status upgrade to full member of the Planning Board. Without being a motion, the show of hands demonstrated the board's unanimous approval.

The board returned to Field Changes. **John DeStefano**, of DeStefano & Associates, represented the Old York Historical Society and Jefferd's Tavern, where four site modifications are necessary. The sidewalk, which is set back five feet from York Street, must be moved to abut the granite curb. As currently planned, the sidewalk would touch the trees and cover their roots, ultimately harming the trees. As well, people would walk into the overhanging branches. He also described a needed change to the connector between the tavern and the barn. The currently planned stone pad in front of the entrance would cause serious drainage issues. He asked, instead, for a handicapped ramp from Lindsay Road to the building. Thirdly, the sidewalk should be moved to protect trees on Lindsay Road. Finally, CMP has called for pole relocation.

Glen MacWilliams asked about omissions from the plan and the rise of the ramp. John DeStefano answered that the drawing has not yet been modified to show the pole relocation. It will be clearly represented in the as-built. The rise of the proposed ramp will be six inches over 40 feet. Dave Woods suggested widening the York Street sidewalk at the site of the Vietnam Memorial that is there. John DeStefano said he believed that could be done. The change would be part of the landscape plan.

Motion Lew Stowe moved to approve the engineering changes as proposed and discussed. Dave Woods seconded the motion, which passed, 5-0.

Minutes--Review and approve draft minutes.

The Minutes from September 13, 2000, were reviewed. Lew Stowe found minor syntax errors for correction.

Motion Barrie Munro moved to approve the September 13 Minutes as amended. Tom Manzi seconded the motion, which passed, 5-0.

The Minutes from September 27, 2007, were reviewed with no errors found.

Motion Barrie Munro moved to approve the September 27 Minutes, as submitted. Tom Manzi seconded the motion, which passed 5-0.

Application Reviews and Public Hearings

- **York Hospital 15 Hospital Drive. Tax Map 0050, Lots: 6A, 11, 22, 23, 23A, 24, 26, 30, 32, 33, & 34. Conceptual review of a Site Plan Application**

Judd Knox of the York Hospital made the presentation for the changes. He gave a brief history of the hospital, which originated in 1908 as a one-nurse operation. He said the elements he would be proposing are critical for enabling the hospital to best serve the community. The three-part expansion includes a surgery center, a new patient wing in the core of the hospital, and parking and site improvements. Ongoing consultation with the Department of Human Services has helped guide the design process. All the while, the hospital would maintain the required 250-foot shoreland setback.

The surgery expansion (6,000 square feet of renovation plus 6,000 square feet of new construction) would accommodate new technology. It will cause the parking to be moved away from the area, but allow patient walkways up from Lindsay Road. There will be new landscaping and fencing. He described the building as being green as possible. Shingle and clapboard siding and a covered porch will transform the current look of a brick, institutional-looking hospital to a building suitable for blending into York Village. He showed before and after elevations illustrating the point.

The new patient wing is next to the Strater Wing and will be supported with Strater Wing facilities. Outside the wing, there will be a planned rain garden. The six patient rooms in the new wing will be unique in that each includes family space with beds and a bathroom. It will allow family members to stay overnight with their loved one in the hospital. The second story of the wing will house doctors' offices. The architectural elements will match those of the surgery unit.

Judd Knox elaborated on the parking changes. The idea of having a parking garage is not part of the current picture. The new parking would be screened from neighbors. A 7,200 square foot rain garden would process the rainwater flowing off the parking lot toward Barrell Mill Pond. Lights will be shielded, and the scalloped cedar fence on the property will be extended. He described compliance to lot coverage, setbacks, landscaping, building heights, and lighting, and he described surveys that have been conducted, including wetland mapping,

The chairman opened the **Public Hearing**, but no one came forward to speak.

Glen MacWilliams commented that it was most likely the nicest conceptual review the board had ever seen. Barrie Munro asked how the steep slopes on the pond side of the hospital have been treated. Eric Weinrieb of Altus Engineering pointed to the significant sloping areas. The grade had to be raised and a retaining wall put in near the surgery wing, where the road comes in. Vegetation will have to be established. An exit from the parking lot will travel through the woods, minimizing slope modification there. The slope by the parking lot also has a bio-retention area (rain garden). Eliminating vertical obstacles (like curbing) will assist in the infiltration of the water, so all walkways will be

flush with the grade. Joe Pritton then talked about the use of natural-like and synthetic stone material making up the clapboards and shingles for maintenance-free building products. The buildings will have seamed metal roofs, and some areas will have rooftop gardens that the patients can see from their room.

Waiver issues were addressed. Steve Burns said that the quantity of storm water does not matter. The hospital fronts a tidal pond that cannot be flooded. Historic and natural features must be preserved. The depth of the slopes and the possible fill that exceeds the standards could be an issue. Lot coverage must be reviewed in terms of the overall site plan and the impact on the neighbors. The hospital is asking for a §17.4 waiver concerning nonconforming design and consolidating lots, however, the planning board cannot enforce that zoning standard. Steve Burns then said he did not find the waivers a “big deal.”

Lew Stowe questioned the need for hospital expansion. Judd Knox said that surgical use at York Hospital has increased by 250% in 10 years. With the expansion, three operating rooms will increase to five. Patient volume would not increase by adding the private and family rooms, but the sense of privacy for the patients in those rooms will increase. There will be 65 additional parking spaces. Based on a traffic review that has been conducted, the trip count will increase marginally. The delineation of the sidewalk will be enhanced with texture in the sidewalk surface, he said.

At Lew Stowe’s request, Steve Burns pointed to several lines of delineation between tide and marsh, showing the edge of the freshwater wetland and the shoreland. This hospital zone was developed to allow this kind of expansion, he said. Barrie Munro said that the town is expanding and so should the hospital, reflecting the need for increased hospital service capability. The response must not come too late. Judd Knox said that the hospital is licensed for 80 beds, and the activity level for this size hospital is very high.

- **York School Department 469 U.S. Route One Map & Lot: 0048-0021. Application to amend the approved parking lot plan to close off one driveway**

Superintendent Assistant of York Schools, Jim Amoroso came before the Planning Board proposing a change in the parking lot of the York School Department offices. Showing a layout of the current property, he pointed out two very large entrances and exits onto Route 1. In the past three years, there have been three accidents caused by people driving through the lot. Every day, vehicles cut through to turn around. Some cars speed through to get to the building next door. Part of the problem is that from the building across the street, cars can only turn south. After doing that, they turn around in the school department parking lot and go north. Jim Amoroso said his office has turned to a traffic engineer for recommendations. As well, York Public Works Director Bill Bray has worked with him on this problem. The conclusion is to close off the south exit, put in a granite curb and establish a continuous buffer up to the existing upper exit. That way, there would be a buffer between the parking and the street. Currently, employees of the

school department cannot park safely in the middle of the lot. The whole idea is to calm traffic down.

The chairman opened the **Public Hearing**. No one came forward, so he closed it again.

Dave Woods said he has been in that part of York for 40 years and has seen accidents. He suggested closing the school department's northerly exit, keeping the southerly one open. A redesign of the central parking would slow down fast moving traffic, maybe eliminating it. A discussion ensued in an effort to determine which exit should be closed. It was finally acknowledged that a more detailed plan would be needed in order to arrive at the best solution to the problem. Tom Manzi asked how/why there was access from the parking lot to the abutting property and was informed that that the original owner of both properties requested this access.

Town Planner Christine Grimando had reviewed the application. She was yet to receive the traffic routing requirements from the director of public works. A required storm water drainage report was yet to be submitted from the applicant. She understands the island abutting Route 1 would have requirements to meet in order to be doubled in length, as proposed. The Compliance to Construction Standards has not been submitted. Neither have findings of fact, signature blocks, handicapped parking details, and other discrepancies between the plan and what she reviewed. The applicant began blacktop work before it realized it had to come before the board, she added.

Assistant Superintendent Jim Amoroso added that the traffic engineer had suggested that reducing the southern entrance or closing it altogether with would make the lot safer.

- **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; tabled at the July 12, 2007 meeting**

Glen MacWilliams noted that the hearing was a continuation of a prior hearing. Steve Haight of Haight Engineering came forward and said that the applicant requests continuation for another month as plans for transfer of the property become finalized.

Motion Barrie Munro moved to continue the extension for one month. Dave Woods seconded the motion, which passé, 5-0.

Borkowski Off the end of Woodside Meadow Road. Property located in Kittery. Application for subdivision in Kittery with sole access in York

Steve Haight of Haight Engineering represented the applicant. He told the board members they had received the agreement between the Towns of York and Kittery and a document concerning the 50-foot access to the subdivision. Steve Burns said that he had not yet transmitted the legal opinion from the MMA to the board members, but will.

The chairman opened the **Public Hearing**. **Jeff McConnell** asked if the long list of questions Bob Tarbox asked at the last hearing would be answered at this meeting, particularly questions about the Mutual Aid Agreement and York's supplying of services to the subdivision because there is no access from Kittery. The taxpayers of York should vote on the issue, he said, because though they do not object to the houses, they object to the access.

Ron Nowell of Cape Neddick had seen the legal opinion from MMA, and said it substantiates what he said to the board at the last hearing. He thanked and commended Lew Stowe for the research he has done with his preparation of "Kittery Woodside Meadows Estates Subdivision Review," saying it throws a great deal of light on the subdivision. There is an upcoming issue with a proposed subdivision consisting of 50 more residences, and it will have a second road. He reminded the board that Kittery had promised to notify the York's abutting homeowners about the current subdivision, but did not do it. That makes all proceedings moot. A third issue has to do with York providing municipal services to private dwellers in another community. The Memo of Understanding, signed by the Town Managers of Kittery and York, requiring the taxpayers of York to provide services to Kittery, that pays no fees for these services, does not exist under Maine State Law, he said. Ron Nowell then recommended the York Planning Board table the subdivision from further review and send the matter back to the Kittery Planning Board, and he asked the board for a motion to do so.

Cory Tarbox also thanked Lew Stowe for his extensive work. The voters of York should decide who should accept the concerns of Kittery, she said. The York abutters were never once invited to voice their concerns before the Kittery Planning Board. She asked not only why the situation is attractive to York, but also why York Town officials are not addressing the matter. At one point, the Kittery access to this subdivision was given up, and then only 20 days later, the access into the subdivision from the York side was purchased.

Brad Robinson, a civil engineer who lives in the Woodside Meadows, said he has no professional or financial interest in the project, but he believes it will be constructed with due diligence, and it will be done well. He does not believe there will be a lot of increased traffic. No one else spoke, so Glen MacWilliams closed the public hearing.

Motion Barrie Munro moved that the Board determine that the application is in violation of SR #5.6.4 "Any revisions to the original plan must be recorded in the Registry of Deeds, pursuant to 30 AM.R.S.A, Section 4407, after approval by the Board." Therefore, the Board should discontinue review of this application until such time as the matter has been corrected. Tom Manzi seconded the motion.

In discussion, Dave Woods said the transfer of the easement, a major issues facing the board, occurred after the death of the original owner. The heir, perhaps, did not know about the subdivision plan. Steve Burns answered that an heir sold the easement. The 5-by-50 foot easement was not shown on the old plan. Glen MacWilliams said the easement could not change hands without coming before the planning board, which was

not done, and proper notification was not given. Barrie Munro said legal notice to the abutters was not satisfied, and that is the immediate issue. Barrie Munro said he was not interested in the emergency access, calling it unimportant at this time. Chairman Glen MacWilliams asked for poll (not a motion) showing preference for the applicant to make a different approach. Four board members were in favor of re-examination matter. Dave Woods was opposed to it.

Steve Haight said that board was indicating a change to the original 1976 subdivision. The inter-local agreements were prepared according to state law. The 5-by-50 foot easement was a right-of-way then, and it is right-of way now. It is a right to pass and re-pass. The applicant would be happy to provide an amendment to the 1976 agreement to go into the public record. A letter has been given to the planning board members from Attorney Jim Katsiaficas, of Perkins Thompson, about the legal aspects of this matter. Steve Haight asked to read it into the record. He said he could have the plan ready and come back with it at the next meeting.

The motion made by Barrie Munro was still on the table. Glen MacWilliams asked the hearing's audience if the abutters had received any notice from Kittery. Two abutters were present, and they answered no. Glen MacWilliams said that the Memos of Understanding and inter-local do not meet the subdivision requirements of public safety, giving the planning board the right to voice concern.

Davie Woods said that currently, if a car hits an animal, Kittery cops respond before York cops do. The possibility of running through Items A to F of the Requirements for Subdivision Site Plans, but Steve Burns said the access is the only aspect of the subdivision applicable to York rules, §1.2, Criteria for Approval. Barrie Munro agreed that §1.2.1.19, Impact on Adjoining Municipality, relates to unreasonable traffic impacts, which are not at issue here. None of the other requirements apply.

Attorney Catherine O'Connor of Perkins Thompson said she was filling in for Jim Katsiaficas. Though brother municipalities must review the application, the review before the York Planning Board asks for approval of the access, and that is all. Police, Fire, and Public Works have all said that the access is safe and will not have a negative impact on York. There is another aspect of the amendment of the 50-lot subdivision, and the applicant will come before the board and deal with that next month, she said. It is separate issues. It will be clearer.

Lew Stowe said that the York residents are aggrieved about the situation, and the planning board represents the residents. They have not had a chance to go to the Kittery Planning Board to voice their concerns. If York residents could do that, it might have an effect on Kittery's approval process. He asked if residents of York could appeal a Kittery decision. Catherine O'Connor answered yes, adding this is not an opportunity to be an advocate in the proceeding. Steve Burns replied that there was an agreement made early on that, due to a statutory requirement, the two towns would meet jointly, and Kittery did not follow through. He said he did not have a clue about how to resolve it. Catherine O'Connor suggested consulting with the town attorney or MMA about how Kittery

should rectify the problem. Steve Haight said that every notice has been published in the newspaper. Catherine O'Connor asked about the York notices to Kittery. Steve Burns said the notices went out eight days before the hearings, including the first hearing in April. Dave Woods said that York should not be burdened with a mess up by Kittery. Barrie Munro said that the motion was made that they have to come back with the application to amend the 1976 plan. The board has to decide if access to the subdivision passes the requirements of passing and re-passing. Catherine O'Connor asked if the application has to start over, if the motion stands. Steve Burns answered, no. Barrie Munro said that the creation of the right of way is in doubt. That, combined with the proper notification issue, constitutes the issues. Steve Haight went over the applicant's steps, including securing signed interloper agreements, a statement about safety issues on the project, and the Memos of Understanding which, though unsigned, were drawn up at the request of the York Fire and Police Departments, so the two planning departments would be aware of the full situation.

At the request of Steve Burns, Glen MacWilliams read the MMA opinion. He then said that York Planning Board has not made the approval nor made substantive decisions about the plan. The applicant can go and address the amendments for the 1976 plan and talk to Kittery about notification. This board has the ability to ask the applicant to do that. The board has also asked the Kittery board to resubmit legal notice of the pending subdivision and comply with the original agreement to have a mutual review of the application.

The chairman called the vote, which resulted with the motion passing, 3-1. Dave Woods was opposed to the motion and Mr. Munro was not present for the vote.

Catherine O'Connor said she wants to return to the planning board and amend the 50-lot subdivision and amend the part of the 5-lot subdivision that is in York.

New Business

- **Prepare for Joint Meeting with Board of Selectmen.** The Planning Board will meet with the Board of Selectmen and the Workforce Housing Committee on October 15. This is an opportunity for the Board to discuss issues of concern and prepare for the meeting.

Steve Burns said the packet with the proposed agenda, including Beach rezoning, would be forwarded to the board members before the joint meeting with the Board of Selectmen. There are five amendments being proposed to the Selectmen for the May referendum, he said.

Other Business/Adjourn

Speaking about *ex parte* communication, Glen MacWilliams said a resident had recently emailed a letter to him, which he passed around to the board and the planner. The sender

became angry, saying it was private, and he did not want it to become public. All board members have to have the same information, Glen MacWilliams continued. There should be a notice that there is no *ex parte* communication and why.

Glen MacWilliams suggested asking the selectmen to look for alternates for the planning board. There are yet.

Glen MacWilliams said a letter had been received from the York Water District about timber harvesting. It included an invitation for Planning Board members to come out on site walk.

The meeting adjourned at 10:55. On their way out, the board signed Mylars for the York Village Business Center.