

**TOWN OF YORK PLANNING BOARD  
THURSDAY, JANUARY 10, 2002—7:00  
GRANT HOUSE**

Chairman Al Bibb began the meeting at 7:00 P.M. by introducing himself and planning board members Dave Marshall, Barrie Munro, Glenn Farrell, and alternate Dan Remick, who did not participate in the voting. Torbert Macdonald arrived ten minutes late. Town Planner Steve Burns represented "staff." Patience Horton was the recording secretary. An audiotape of the meeting was also made.

**Larson. Map 86/Lots 4, 4A, 4B, and 4G.** U.S. Route One. Public hearing and consideration of an application for the 4-lot subdivision.

Mr. Burns introduced the application, which had been accepted for review by the board on May 10, 2001, describing it as a 4-lot subdivision ready for final review. He said that waivers were needed. The road design had been changed with different curves and a gravel surface. The police chief had okayed the entrance change. A wetlands assessment with a mitigation proposal was still needed. The town engineer needed to approve certain changes. Representing the applicant, Lou Chamberlain told the board that, if they found the application satisfactory, he was seeking their approval to continue.

Mr. Farrell motioned to open public hearing, which Mr. Munro seconded. Citing several sources of information, including past planning board meeting minutes and *The York Weekly*, Tom Fisher of Creation Lane summarized his problems with the project, including the storm water management study, which showed some existing houses in the area will need sub-pumps as a result of the new houses. He stated that the soil survey showed the soil was rated poorly. A revised map he had not yet seen showed "new wetlands" which concerned him. His neighbor had learned that building envelopes had to be moved because of the wetlands. He referred to 100-year storms, saying there had been 3 in the last 8 years. He brought up State of Maine requirements about septic systems, their proximity to others' wells, and the impossibility of placing them "anywhere," according to his calculations. He said that waivering and readjusting things are like putting a foot in a shoe that won't fit.

Stan Moody of the Conservation Commission summarized the rules about consolidating leech fields when they are within a certain distance of a well, sometimes calling for creation of a controlled system with a larger buffer from the wetland and a larger protective radius around any wells. He then suggested that there be plan notes made stating that additional bedrooms cannot be added to these subdivision homes. If bedrooms are added, the homes will become out of compliance. He recommended that the Planning Board watch that step carefully.

Allen Goodwin, who lives on the nearby corner lot, and who developed Creation Lane, stated that numbers about the septic tanks were incorrect, and then stepped up to the easel and inspected the plot plan for a while.

Mr. Munro motioned, and Mr. Macdonald seconded, to close the public hearing.

Mr. Chamberlain responded, saying a soil scientist in his office had delineated the plan, which meets ground requirements. Development will not occur in wetland areas. The plan for septic systems has been reviewed and approved by the code enforcement office.

Board discussion about setbacks included Mr. Burns's statement that the setback requirement for this subdivision is 35 feet, and the applicant has allowed for 50 feet. He thought that Mr. Moody's point about the file notes should be followed. Mr. Macdonald suggested that low-flow plumbing be recommended. Mr. Munro suggested that the pumping of the septic tanks within 2 years also become a plan note. Mr. Macdonald, speaking about the poor quality of the drainage, thought it inappropriate to use chemical fertilizer on this land. There was a discussion about the mitigation plan to be established by Michelle Dionne of the Wells National Estuarine Research Reserve. The possibility of building on three lots, instead of four, was also discussed.

Mr. Bibb read a letter from Mr. and Mrs. Kenneth Gray, of 19 Creation Lane, who oppose the subdivision for four reasons. They stated that the area was wetlands and building would upset the stability of the ground water and wells. Also, they stated that other attempts, or "schemes," as they called them, to build on the proposed site had not been successful. They asked what recourse they might possibly have if the water becomes contaminated. They also described the area as a wildlife haven. They recently learned the area was of interest as the location of a historic gristmill.

Mr. Bibb called for a vote on the waivers. Mr. Munro motioned to approve the waivers, which Mr. Farrell seconded. In discussion, the reduction of the road width, re-configuration of the corners, and the drainage study, not yet reviewed by the town engineer, were all mentioned. Mr. Macdonald showed concern about the layout and the workability of the project. Mr. Marshall said that Sections (b) and (c) of the waiver would allow for development of a property he called "horrible." Mr. Munro said that if the board felt this poorly about the property, they should have acted on it quite some time ago. Mr. Macdonald answered that, at that time, they didn't know the implications behind the waivers.

Mr. Bibb called for the vote. The waivers were approved by 3-2, with Mr. Macdonald and Mr. Marshall opposing.

The motion to pass Waiver 9.7.3.2, about the road, was made by Mr. Munro, with Mr. Farrell seconding the motion. Mr. Macdonald added a friendly amendment that the road will remain private. The motion passed with 5-0.

Mr. Bibb raised the subject of voting for preliminary approval, saying that he was personally not ready to vote on it until the assessment from the Wells Reserve was complete. Greg Larson, the applicant, stated that he didn't want to have the Wells Reserve study done, but would have, if it were proposed four or five months before. Mr. Burns replied that doing so was the owner's responsibility. Mr. Munro added that further study is always made at the cost of the developer. Mr. Macdonald said that the study would reveal the adequacy of the buffer to protect the integrity of the Dolly Gordon Brook.

Mr. Munro motioned to instruct the staff to go forward and recommend the study by the Wells Reserve, as discussed. Mr. Farrell seconded the motion, which passed 5-0.

Mr. Munro motioned that low-flow fixtures be required in the subdivision houses, that the septic tanks be pumped within 2 years of installation, and that plan notes disallowing future additional bedroom, as Mr. Moody suggested, be placed in the files.

Mr. Munro suggested the possibility of accepting both preliminary and final plans together in a future meeting, which Mr. Macdonald opposed, due to "too much mystery." The possibility of scaling-down the plan was also discussed. Momentarily

overlooking the motion about low-flow fixtures already on the table, Mr. Macdonald moved to reject the preliminary plan, which Mr. Marshall seconded, saying that the acceptance of the current plan, which had "calculations taken to the edge," was too risky. Mr. Farrell said that ordinances serve as a standard, and the ordinances had not been violated.

Mr. Bibb brought the group back to Mr. Munro's the motion about low-flow fixtures, pumped septic systems, and plan notes, which was then seconded by Mr. Farrell, and passed unanimously, 5-0.

Mr. Macdonald then withdrew his motion to reject the preliminary plan. Mr. Marshall also withdrew his second. Mr. Macdonald motioned to table the preliminary plan approval, which was seconded by Dave Marshall, saying that the overall responsibility is to protect the environment. Mr. Bibb called for the vote to table the application until further information is compiled, which was a unanimous vote, 5-0. There was a short break.

**Spring Pond Estates. Map 32/Lot 3A.** Styles Lane. Public hearing and consideration of an application to change the community center building to include two elderly congregate care residential units.

Mr. Burns introduced the matter, an application to amend a housing project, which can be accepted as complete. He described a community building with an apartment and a kitchen that needed to be converted into condominiumized, age-restricted living space.

The applicant, Walter Woods, spoke. He said that the planning board had tabled the application earlier, because the stove wasn't in place, but that it was now as planned. For the file, he brought copy of a letter outlining what has been taken care of. The Spring Ponds Home Owners were agreeing to change the 2 units to condos and to include them into the community. A few conditions were listed, including a 120-day grace period, which Mr. Macdonald asked if was really 90, which it wasn't.

Mr. Bibb asked to accept the application for review. Mr. Farrell motioned to do so, which Mr. Marshall seconded. It was accepted with a 5-0 vote. Mr. Macdonald motioned to open the public hearing, which Mr. Marshall seconded. No one came forward, so Mr. Munro motioned to close it, which Mr. Marshall seconded. There was a 5-0 vote to close the public hearing.

There was general discussion about use of an office on the first floor and age-restriction restrictions. Mr. Munro motioned to approve the application, including plan notes Mr. Burns had made and allowing 120 days for the applicant to get department sign-offs on the plan. Mr. Marshall seconded the motion, which passed, 5-0.

**Old Post Office Suites. Map 94/Lot 12.** U.S. Route One. Public hearing and consideration of an application to construct an office condominium building.

Mr. Burns introduced the matter, describing an application to construct an office condominium near the pond near Wild Willy's. The board had accepted the application for consideration in May 2001, and had walked the site in June. The applicant had come back with responses to comments. All the issues were met. Traffic impact was not a concern, as it did not meet the requirements for a study. Soil information had

made way for the design of a septic system. The landscaping needs to be done by a Maine State licensed landscaper. The exterior siding material needs to be changed.

The applicant, Walter Woods, said that the pond is not regulated, because it is man-made (the application was tabled at a prior hearing because it wasn't known if the pond was regulated). The wetland is not a Shoreland wetland. Paperwork from the State regarding a high-intensity soil survey was presented for the file. A buffer created by added land and pine trees that will never be cut exists between this lot and York Woods. Salmon Falls Nursery did the landscape work. Mr. Munro explained that a licensed landscaper needed to be used to make Route One properties look more consistent. Mr. Woods said he wanted to use vinyl siding, but would accept wood. There was discussion about whether fill had been added recently, but none had.

Mr. Marshall motioned to open the public hearing, which Mr. Munro seconded. No one came forward, so the same two closed the public hearing.

Mr. Farrell asked about handicapped parking on an apparently sloping driveway, which Mr. Anderson explained as an inaccurate elevation representation. There were no waivers needed.

Mr. Farrell motioned to have the application approved subject to landscaping by a licensed firm, the removal of the sewer department signoff as an application requirement, a change to acceptable siding material, approval by the town attorney, and written approval by the Department of Transportation for one entrance onto the site. Mr. Munro seconded the motion, which passed, 5-0.

**York Harbor Condos. Map 51/Lot 35.** 168 Woodbridge Road. Public hearing and consideration of application acceptance and approval of an application for a Minor Site Plan for condominium conversion of an existing 8-unit building.

Mr. Burns introduced the matter, describing straight condominium conversion of an 8-unit apartment building, for which the applicant had already paid the fee.

Bill Anderson, engineer on the project, showed the Shoreland zone with a 250-foot setback met. On his plan, he had added abutters, shown the water and sewer connections, requiring no change, and a narrowed-down entrance. He pointed out a "grass parking area."

Mr. Munro motioned to accept the application for review, and Mr. Farrell second the motion, which was passed 5-0. Mr. Munro then motioned for the opening of a public hearing, which Mr. Marshall seconded. No one spoke, so Mr. Munro and Mr. Marshall motioned for and seconded its closing.

Mr. Burns had gotten a call from some abutters named "Patty" and "Pat" who were concerned about people cutting through the property and asked that a hedge be put up. Mr. Anderson said he couldn't imagine where anyone might cut through. Mr. Bibb said that the board wouldn't be conveying such a change with a hedge. Mr. Marshall asked about the grass parking spaces. Mr. Anderson said that the property already had enough parking, but decided to reconfigure additional parking on existing blacktop, anyway.

Mr. Farrell moved to approve the amended plan, with grass spaces removed, subject to necessary signoffs from police, fire, and water and sewer, providing the town attorney approves of the condominium documents. Mr. Munro seconded the motion, which passed, 5-0.

**York Corner Place. Map 48/Lot 20.** U.S. Route One. Public hearing and consideration of an application for construction of a new retail/service building.

Mr. Burns introduced the matter as a revised version with changes to the drive-through window at the front. A letter from Kenny Gardner stated that it wasn't certain whether the drainage swales were are manmade or natural. The designs for cross-easements and parking spaces are better. The fence is being removed. Low ground cover was a concern that has been solved. Plan notes and the town engineer's review are still necessary. Mr.

Macdonald asked if the handicapped parking will allow access to the entire building and was told, yes. Mr. Burns said that a plan for ADA accessibility could become a plan note. Boilerplate language about ADA legislation was suggested as an addition to many future York Planning projects.

Mr. Macdonald moved to open the public hearing, which Mr. Munro seconded. Michelle Moody identified herself as a regular citizen, and asked about van accessibility vs. that of a regular car. Mr. Anderson explained rules around automobile accessibility. Mr. Munro motioned to close the public hearing, which Mr. Farrell seconded.

Mr. Munro went through the list of recommended actions Mr. Burns had prepared for the board, and saw the Section (c), about the drive-up bank window, no longer pertained. Looking at Pages 3 and 4 of the same memo, he said that those items have to be amended to the plan. He motioned to approve the plan with those conditions. Mr. Farrell seconded the motion, which passed 5-0.

### **Other Business**

Chuck Ganem stood before the board and described his difficulties in dealing with the Planning Department and the Shoreland/Wetland Committee. He has owned his parcel since 1969, and has split some off for his children. He wants to sell some as family lots. When he submitted an application in October 2000, he was told he needed to show a road as the access. He did so, and the application was accepted as complete. In April of 2001, a CEO told him that the property needed a wetland review, which Mark Badger did, taking measurements and documenting them on the application. He was told that he didn't have to do anything to prepare for the meeting. In August 2001, the road hadn't been reviewed. Mr. Ganem asked that the building permit be reviewed. He was issued a permit on condition that no fill is put on the road, until permitted. He was charged and paid \$200 for the permit. The lot was sold to a family, and the contractor had been building the house. The contractor built the road. The contractor was asked to extend the road away from the wetland. Fill was placed within the 100-foot buffer. The contractor misunderstood.

Mr. Ganem took full responsibility for the mistake. The code office has made it impossible to resolve the problem. He went to first wetland review. They made conditions, which he tried to meet. At the second meeting, he expected everything to be accepted. The meeting was a "disaster." He is frustrated with how the Town has treated him and doesn't know what to do. He has full documentation of the events.

Mr. Macdonald spoke. He is a member of the Shoreland/Wetland Committee and was at both meetings. He said that he backs-up that Mr. Ganem was supposed to have the wetlands professionally flagged by Kenny Gardner and have documentation, which he did. At the December 19, 2001 meeting, conditions were made based on new information the CEO had gathered at the site 2 days before, without notification. The CEO then began to nitpick the situation. The wetland at issue is seasonal drainage. Mr. Macdonald then described the property. He said that it needs a cul-

vert. Says there was no impact on the ecology. Describes how a family is being held up.

Mr. Burns said that the board couldn't act without notification of the abutters. Mr. Farrell said that this board could make a recommendation to the town manager that a temporary occupancy permit be issued. Mr. Burns reminded the board that two members of the Shoreland Committee voted against the matter, surely with some reason. He said that a temporary occupancy permit could be obtained, until the matter is ironed out. Mr. Marshall said that the Town Manager could get it approved. Mr. Remick said that the town charter doesn't allow the officials to tell each other what to do.

Mr. Farrell explained to Mr. Ganem that a lack of planning office manpower sometimes makes the planning process inefficient, and that Mr. Ganem was caught in the middle of it. Mr. Burns instructed Mr. Ganem to get to the board of appeals quickly, before his time is up. Mr. Ganem described how having the same personnel on the Shoreland Committee and in the CEO's office has made his process an endless loop. Mr. Bibb expresses sincere appreciation to Mr. Ganem for coming before the board.

In other business, Mr. Marshall brought up the ordinance that requires the routine for after-school traffic cops to be reviewed and approved by the planning board before changed. However, of the 2 cops that began duty in the fall, the first dropped off the job in September, without board permission, and the second has apparently been dropped recently. He believes that the schools should set examples and follow the rules. Mr. Burns replied that Jim Amoroso is going to make the argument that the cops are not needed. Mr. Bibb asked Mr. Burns to raise the issue before CEOs.

In other business, Mr. Burns first handed out books with new state laws, then asked for someone representing the planning board to go to the January 23 Board of Appeals meeting to deny approval of a proposed tower. Everyone looked at Mr. Bibb, who said, "All right, I'll go."

The meeting was adjourned. It was 9:55.