

**York Planning Board  
Minutes  
Thursday, January 11, 2007, 7:00 PM  
York Public Library**

**Call to Order, Determination of Presence of Quorum**

Chairman Glen MacWilliams began the meeting at 7:00 by introducing the Planning Board and staff. He determined the presence of a quorum. Glen MacWilliams, Vice Chairman Tom Manzi, Glenn Farrell, Barrie Munro, and alternate Lee Corbin were present. Richard Smith was absent. Lee Corbin voted in his place. Town Planner Steve Burns represented 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**

**Sanford Institution for Savings** David Ranta represented the applicant. He said that the widening of the road by Maine Department of Transportation had affected the landscape and sidewalk plans that had previously been accepted by the Planning Board. Landscape architect Terrence Parker had since revised the drawings, which David Ranta handed to the board members. Glen MacWilliams pointed out that the location of some Elm trees on the landscape plan were outside of the property line, and explained that the Planning Board cannot approve what is not on the applicant's property.

**Motion** Tom Manzi moved for conditional approval of the field change, providing that the trees that are shown inside the road right-of-way on Terrence Parker's plan are moved back onto the applicant's property. Glenn Farrell seconded the motion, which passed 5-0.

**Bayberry Ridge** Walter Woods described changes in a riprap swale and culvert for this property next to Styles Lane. He showed pictures taken before and after the changes were made.

**Motion** Glenn Farrell moved to approve the proposed field change. Barrie Munro seconded the motion, which passed, 5-0.

**York Storage Solutions** Ben Walden of Attar Engineering showed the new location of the already-approved, underground 1,000-gallon propane tank, which must be moved to accommodate septic lines. Also, he showed the plan of the newly proposed aboveground

100-gallon propane tank, which would be for office use. There was some board discussion.

**Motion** Glenn Farrell moved to approve the requested field change. Barrie Munro seconded the motion, which passed, 5-0.

## **Minutes**

### **Review and approve draft minutes.**

Glen MacWilliams pointed out several changes in the December 7, 2006, minutes that were necessary, including an inaccurate heading. The copy of the changes was given to the recording secretary. Steve Burns also wrote them down and planned to make the changes, himself.

**Motion** Barrie Munro moved to accept the December 7, 2006, minutes, as amended. Tom Manzi seconded the motion, which passed, 5-0.

## **Application Reviews**

- Whippoorwill Subdivision Amendment. 13 and 15 Osprey Lane. Map & Lots: 0094A-0085 and 0094A-0086. Minor boundary line adjustment.

Steve Burns said that a new application was necessary in this case, because there are now two property owners, rather than one. Representing the applicant, Bill Anderson said the application involved a simple lot line change. When the subdivision was designed, the house on Lot 85 was closer to the road. The house still meets the setbacks, but the landscaping on Lot 85 looks more like it should go on Lot 86. Lee Corbin asked if the deeds for the properties would be re-drafted, and Bill Anderson said they would be.

The public hearing was opened and closed. No one came forward to speak.

**Motion** Glenn Farrell moved to approve the requested change and the Findings of Fact. Lee Corbin seconded the motion, which passed, 5-0.

- Anchorage Amendments. 265 & 269 Long Beach Ave. Map & Lots: 0036-0096 and 0036-0096-A. Minor site amendments on both lots.

Bill Anderson described the change to the landscaping plan and the addition of a walkway for the proposed Anchorage building. Some wording had been changed in the plan. For example, the term “emergency vehicle lane” was changed to the term “emergency vehicle driveway” to better accommodate Maine DEP.

The Chairman opened the public hearing, but no one came forward to speak.

The expansion of the pool area remained an unsettled issue. The Shoreland Zone was discussed. Steve Burns said that the 100 foot setback from the high tide line is met in about the middle of Route 1A, not even reaching the Anchorage property, actually about 225 feet from high tide. The relocation of Mitchell Road was discussed. Bill Anderson said that the road is being shifted back into the section of the right-of-way where it should be. Glen MacWilliams asked about parking on the lawn. Ray Ramsey said that parking on the lawn was not included in any plan notes. Glen MacWilliams said that all the plan notes, terms, and approvals from the earlier plans must be carried over to this plan. The applicant was charged with the responsibility of coming forward with plan notes that either prohibited or permitted parking on the motel's front lawn.

**Motion** Glenn Farrell moved to conditionally approve the amendment subject to the prior plan notes being incorporated into the current plan. Barrie Munro seconded the motion.

In discussion, the possibility of waiting for the state permit was discussed. Barrie Munro made the friendly amendment to include the State permits into the conditional motion. Glenn Farrell agreed.

**Vote** The motion passed, 5-0.

- **Union Bluff Amendments.** 4 & 6 Beach Street, and 416 Ridge Road. Map & Lots: 0024-0043, 0024-0043-B, and 0094-0084-A. Amendments to approve Site Plan.

Steve Burns called the proposed changes a plan change. JoAnn Fryer of CLD Engineers made a list of changes that were being requested:

1. The addition of 970 square feet of storage and reconfigured laundry space to be located beneath the Beach Street patio;
2. A change to the retaining wall face material;
3. Patio grading and change to the drainage;
4. Reconfiguration of the propane fuel storage; and
5. A revision to place all utility lines beneath ground.

The Chairman opened the public hearing. (Note, all those who came forward and spoke during the public hearing expressed concern about the proposed parking lot on Ridge Road.)

**Rob Byers** spoke. He said that his house is across from the function hall's (remote) parking lot, and his living room window faces it. He is concerned about the noise and the lights from the parking lot.

**Scott Ireland** said that his house also faces the parking lot. He imagined that the noise in the lot might go until 1:00 in the morning, and that people might have had some beverages at the functions that would make them louder. He was also concerned about the lights from the cars. He suggested installing an 8-foot buffer fence and landscaping. He asked about security against vandals in the parking lot. He asked how the parking lot area is zoned. He was concerned that his property value will diminish because of the 58-car parking lot, and he asked that the Town pay for an appraisal of his house, asking who is going to pay for the money he would be losing on his house with the installation of the parking lot.

**Larry Ireland** of Mary Street and the corner of Ridge Road said that his family was never notified about the application. A letter of December 5, 2006, from Town Planner Steve Burns made them aware of the situation, but the time period of 30 days in which they could appeal since then was over. He said that he wanted to see work stopped until he can appeal.

**Christine Ireland** asked if the Steve Burns letter of December 5 could be read into the record.

Steve Burns said that 11 copies of the letter were sent out to the property owner of the parking lot and the 10 abutters. He read the letter. It said that due to an oversight, abutters to the parking lot had not been notified about the application. When the board originally met to approve the parking lot (October 12, 2006), the original submittals did not include the parking lot abutters. Those wishing to appeal should notify the secretary of the Board of Appeals.

**Christine Ireland** then asked a series of questions. Did the Union Bluff owner know that the abutters should have been notified? Steve Burns replied that the Town staff had been responsible for the notice. Through oversight, the map and site description did not include the parking lot. Christine Ireland asked if the Town had considered traffic issues. Had anyone done a traffic study? Events cause more traffic issues, she said. She wanted to know what steps will be made to control the noise from the parking lot from the events. She said she has inherent right to peace and quite in her home, and she does not feel she will be able to sit on the front lawn with a cookout with the parking lot there. Also, what measure will there be for security?

Glenn Farrell apologized that she was not notified and told her, however, that the parking lot is a permitted use in that zone, and the Planning Board cannot prevent the parking lot. Christine Ireland answered that she thought an appraiser should be hired to determine the devaluation of the homes there. Glen MacWilliams said that the Planning Board will address the issues through the use of public hearings, but the board cannot help her with the appellate. She then said that she was requesting a work stoppage until her family can have an appraiser determine the effect the parking lot would have on their homes. Glen

MacWilliams told her that work stoppage would not come from the Planning Board, but from Code Enforcement. She said that she wanted to find out the facts and then appeal.

Steve Burns said that if the Irelands need additional time to get addition information, it would not be correct for the Planning Board to make decisions that night about the parking lot.

No one else came forward to speak. The public hearing was closed.

Glen MacWilliams said that the increase in overall area caused by the proposed changes would require two more parking spaces to accommodate the workers. JoAnn Fryer answered that the kitchen space had already been used in the parking calculation. Applicant Brett Merritt said that more workers were not being brought in, but rather that workspace was being relocated through the change. The laundry is going to mostly be storage. Barrie Munro pointed out that the matter of the number of parking spaces that a restaurant requires is based on the number of tables and the number of employees, not the square footage of the restaurant or kitchen, or in this case, the laundry room.

A January 8, 2007, letter from Dewey Horn of 414 Ridge Road was read into the record. A 50-foot right-of-way must be unobstructed at all times in order to maintain an access to his property. JoAnn Fryer said that parking spaces could be moved to better accommodate the ROW, if necessary. Glen MacWilliams asked for a plan note stating that the ROW will not be encumbered. JoAnn Fryer agreed to meet with Dewey Horn and come to an agreement with him about it.

Tom Manzi pointed out that, if the abutters to the parking lot go to the appeals board, they would only be sent back to the Planning Board, which would offer new orders to the applicant to submit plans for the parking lot, which the board is doing anyway. Barrie Munro asked for a “gentleman’s agreement” for no more work on the parking lot. Brett Merritt answered that the work is complete until the spring, anyway.

The board went back to discussing the five field changes that were requested by JoAnn Fryer at the beginning of this hearing. Glenn Farrell commented that they were relatively minor.

**Motion** Glenn Farrell moved to approve the requested field changes. Barrie Munro seconded the motion, which passed, 5-0.

- **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.

Steve Haight gave a brief review, adding that since December, soil scientist Mike Cuomo had done a wetland assessment in the New Hampshire standard. Not all the requested

issues were ready to discuss, thrown off schedule, mainly because of the holidays. Attorney Jim Katsiaficas then said he agreed to extend the time for review through the February meeting.

The Chairman opened the public hearing.

**David Tibbetts** of the York Conservation Commission showed a chart of the Highland Farm property with areas in yellow representing the contiguous wetlands in Phase 1. That information came from the Army Corps of Engineers wetland delineation from 1987. David Tibbetts said manmade things (like roads) do not separate wetlands. The Town mandates that this area is not on the shoreland map, but the Planning Board has to recognize the property as such. In doing so, proper buffers need to be observed. He discussed a hearing about the separation of a less-than-four-acre wetland at Godfrey Cove a couple of years ago, where it was decided that the road could divide the wetland. A man-made structure should not divide those wetlands, he concluded.

**Joanne Muckenhoupt** said she represents a citizens' group concerned with the conservation and preservation of the Highland Farm land. Her group had hired a consultant, Susan Morse of Morse & Morse, in Vermont. Joanne Muckenhoupt implored the board to acknowledgement the importance of 100% conservation of that land. She read a letter from Susan Morse describing the necessity and scope of a one-year comprehensive survey before continuing.

**Sharon England** of 28 Rumsey Road read a letter into the record signed by the residents of Rumsey Road. It described issues they wish to have addressed, including their private wells, the quality of well water, the possibility of well water contamination and its effect on their ability to ultimately sell their properties, pesticide and herbicide use on lawns, the annual washout of Rumsey Road and the possibility that the road might become impassible, the Shaw property runoff into wells and septic systems, the traffic on Route 91, and the major concerns about emergency vehicles during rain events all concern the Rumsey Road neighbors, and they expressed it in their letter.

The public hearing was closed.

As the Planning Board had requested him to do at the last hearing, Jim Katsiaficas explained how the Comprehensive Plan is "not self-effectuating." He said that the citations to that end had been sent to Steve Burns. The comp plan is about what resources and demographics the community has and where it wants to go, and the ordinances must be in keeping with the comp plan. After citing several examples, he summed the matter up by saying, "The question the Planning Board has raised is the extent to which the Comprehensive Plan is separately enforceable. The general rule is that a Comprehensive plan itself is not enforceable."

Steve Burns said he had met with Steve Haight and talked about the New Hampshire assessment of the wetland and whether or not Gove Environmental would assess the vernal pools. Also, a letter was read into the record from the Town of Kittery Town Manager Jonathan Carter, who stated “the Kittery Town Council realizes a subdivision of this size will adversely impact and disrupt the environment of Boulter Pond, which is a key water supply for Kittery . . .” In the letter, Kittery’s Town Manager encouraged the York Planning Board to require State and Federal review through the Army Corps of Engineers because building houses in that area cannot be minimized.

Steve Haight reported that he had been corresponding with the Kittery Water District about granting a 250-foot easement or possibly allowing Kittery to buy that land. Glen MacWilliams said that such a buffer as a protective zone is a high priority, as is the vernal pool assessment, the window for which is in April or May. Steve Haight agreed that the applicant had agreed to study vernal pools. Barrie Munro wanted the next review to include plans for protecting the adjacent properties on Rumsey Road. He also asked for information concerning the distance to drinking water wells on the properties on Rumsey Road. There was a discussion of the processes by which the impact of blasting and other construction could be assessed, however, it was stated that the Planning Board could not do anything about property values. Steve Haight replied that he would not go out and locate wells. Steve Burns said that the Rumsey abutters could be asked to identify the locations of their wells.

Steve Burns said that there are more than 10 acres of wetlands highlighted on the map David Tibbetts had shown. Glen MacWilliams said that the Planning Board had tried to change it so a road would be barrier, but the legislative body of York had kept it that way. Our ordinances are not effective, if this is not contiguous wetland. How David Tibbetts described it was not correct. Steve Burns said that during the Godfrey Cove hearing, the Planning Board was under old policy. After November 2, 2004, the road through it would no longer be considered a divider.

The Planning Board and the applicant team agreed to continue the application in February.

### **Other Business/Adjourn**

In other business, Steve Burns said that the shoreland zoning is in full compliance, and has been approved by the State.

In other business, Steve Burns described a proposed 5-lot subdivision in Kittery at the end of Woodside Meadow Road that would be accessed through York. The Planning Boards of both York and Kittery are required to review this together, unless both agree to waive the requirement to meet jointly. The subdivision will not have York Town water or sewer, but rather wells and septic. The phone, cable, and electric lines would come through York. The road is private. Bill Bray says that the traffic will be immaterial.

Barrie Munro suggested making a motion to encourage the Kittery Planning Board to resume full responsibility for this subdivision. Glenn Farrell said that the improvements of Woodside Road to be done by the Town of York would have to be administered by York.

**Motion** Glenn Farrell moved that the two towns review their own aspects of the subdivision separately, that York abutters would be notified of Kittery meetings, and Kittery abutters would be notified of York meetings. Barrie Munro seconded the motion, which passed, 5-0.

**In other business**, Engineer JoAnn Fryer explained that Public Works Director Bill Bray has had allowed parking at the **Cape Neddick House** in the State right-of-way, because it would not affect the Town's ability to maintain Route 1. This information was the answer to an outstanding issue, and JoAnn Fryer had brought mylars to sign.

**In other business**, Barrie Munro described the status of the work done by the *ad hoc* committee that was charged with assessing the need for supplemental landscaping along Central Maine Power's power line site. David Tibbetts (Conservation Commission), Torbert Macdonald (Selectmen), a CMP liaison, and Barrie Munro were on that committee. The Committee's work is essentially complete and the Committee is waiting for a final revised plan from its CMP liaison representative. Basically the plan calls for \$5,000 to be spent on fencing along the driveway and parking lot for McKenna's apartments off Beechridge Road and the remaining \$15,000 to be spent on supplemental planting along the CMP ROW. CMP has disallowed the Committee's first plan that included Black Spruce, Balsam Fir and White Pine restricting the Committee to Red Cedar and Arborvitae. The work will be complete by Jun 30<sup>th</sup>.

The meeting adjourned at 10:30.