

**TOWN OF YORK PLANNING BOARD  
THURSDAY, SEPTEMBER 12, 2002, 7:00 P.M.  
YORK PUBLIC LIBRARY**

Board Chairman Glenn Farrell called the meeting to order at 7:00. Dave Marshall, Barrie Munro, Torbert Macdonald, and alternate Mike Estes, who voted in place of absent Al Bibb, attended. Town Planner Steve Burns and Land Use Technician Brett Horr represented Staff. Patience Horton was the recording secretary. The meeting was televised. Brett Horr announced that the Jacobson application had been tabled at the applicant's request.

Minutes Review and approval of Minutes of August 22, 2002 meeting.

Barrie Munro and Mike Estes motioned and seconded to approve the minutes of the August 22, 2002 meeting, which vote passed, 2-0.

APPLICATIONS/PUBLIC HEARINGS

Enterprise rent-a-car, Map 91/Lot 8Y, U.S. Route One. Route One Use Permit for change of use from retail to retail car rental

Brett Horr introduced the matter, explaining that Enterprise wished to expand the original Dexter Shoe outlet building to include a single-bay garage and some office space. Interior car cleaning would be the only purpose for the garage, no car wash. Four waivers were needed: scale waiver; landscaping plan; traffic study; and impact analysis—all for which Brett recommended approval. Letters of acceptance from the Police and Fire Chiefs had not arrived.

Barrie Munro and Dave Marshall moved and seconded to accept the application as complete. All voted in favor of the motion, 5-0.

Torbert Macdonald suggested that a landscape architect should be hired. Barrie Munro agreed. Dan Rollins of Enterprise answered that his group would provide whatever plantings are recommended.

Barrie Munro and Dave Marshall motioned and seconded to open the Public Hearing. No one came forward, so the same two closed it.

Brett read a letter from abutters John & Gail Fennessey, whose lot is directly behind the Enterprise property. They were concerned about "noise, increased traffic, hours of operation, use of the service road along their property line, and visible commercial activity." They asked that such activity remain only in the front of the building. For several reasons, they oppose the use of the apparently, currently unused dirt driveway onto Donica Road.

Dave Marshall and Barrie Munro asked questions about the changed appearance of the building. Steve Burns said that the nature of the exterior of the building would be unchanged. The "new" will be consistent with what is there. Discussion followed over what is old and what is new. Dan Rollins pointed out the changes on the elevation.

Glenn Farrell moved that the Board require that a landscape architect stamp the plan, so it will bring it to the standard that the Town requires. Enterprise must also delineate what is old and what is new, especially regarding pavement. Torbert Macdonald seconded the motion.

Barrie suggest that lot coverage be identified. Torbert noted that there is no analysis of the wetland on the plan. Steve answered that the permitted lot coverage is 70%, and they are nowhere near that. Barrie said that consistency from one Route 1 application to another must be maintained. The information on the presented plan had marginal information about landscaping and the driveway. Glenn noted that the paving for the driveway around to the back was missing.

That information is needed, which calls for the need to know exactly what is new and what already exists. Torbert brought up the existing septic, asking if there were an analysis about it. Brett said that test pits had been looked at, and that the CEOs approved it.

Glenn Farrell called the vote, which passed, 5-0.

Walter Woods, Map 94/Lot 84X. Preliminary and final review for a 2-lot subdivision as well as Shoreland approval.

Glenn Farrell, referring to the circumstances left at Walter Woods's last hearing, qualified the situation by saying that Walter had reconfigured the lots. The landscaping exceeded what was required. The "gravel pit" that was left from the prior development had to be removed. There was no illegal gravel pit.

Barrie Munro and Dave Marshall moved and seconded to accept the application for review. The vote passed, 5-0.

Brett Horr showed the reconfigured Parcels B and A on the plot. Rather than two additional units, the new plan accommodated only one.

Glenn opened the Public Hearing. No one came forward to speak. Barrie Munro and Dave Marshall moved and seconded to close it, for which all were in favor.

In bringing up the matter of the waiver on the landscape design, Brett Horr said that the specifics of the buffer, as requested last time, had been shown. He also went and checked the landscaping at Spring Pond, and the applicant had exceeded what was requested, there.

Barrie Munro motioned to waive the landscaping design, which Dave Marshall seconded. The vote was 4-1, with Torbert Macdonald opposed.

Dave Marshall and Barrie Munro moved and seconded to approve Section 6.3.27 Storm Water Drainage. The vote passed, 4-0, with Torbert Macdonald abstaining from the vote, because he felt he did not know enough about the circumstances.

Barrie Munro and Dave Marshall moved and seconded to approve Waiver Request 6.3.32, High Intensity Soil Survey. All were in favor, 5-0.

Barrie Munro moved for preliminary and final approval for a 2-lot subdivision and a Shoreland Permit, with the conditions that: the drainage report be reviewed and accepted by the Town Engineer; the notes addressing approval of waiver requests be included on the plan; the Certification of Monumentation be completed; and the addition of standard plan notes be attached to plans. Dave Marshall seconded the motion.

In discussion, Torbert Macdonald pointed out that there is a letter from abutters claiming to have a 30-ft. wide drainage easement, which they are afraid might be filled in. He asked why drainage is being waived instead of having the town engineer look at it. Bill Anderson showed on the plan that that particular abutter was so far away, his property could not be affected. Walter explained that the property in discussion is part of a different phase. Culverts were put in, which John Treat reviewed and approved.

The Chairman called the vote, which was 4-1, with Torbert Macdonald opposed.

York Shores, Map 89/Lot 56. Review for the addition of 2 lots.

Brett Horr introduced the matter, saying that the greatest issue was whether the applicant's plan meets the requirements of Regulation 9.5.8. Furthermore, the issue of the crossing of the wetlands was not yet organized for Board discussion.

The street connection was discussed first. The applicant wished to have a waiver of Regulation 9.5.8. Bill Anderson gave a history of the creation of those lots, in 1989. He said that it is not a bad intersection. There is plenty of sight coming out onto Route 91. It was built to town standards, meeting all requirements for even trucks. It is level. Barrie said that any accident on the cul-de-sac would block emergency vehicles from getting in. Torbert wondered why the Board should allow it now, if the Board would not allow it then. Get rid of the regulation, he suggested.

Dave Marshall and Barrie Munro moved and seconded to open the public hearing. Mark Kinton spoke. He is the direct abutter to the left. He never received a Notice to Abutters, and neither did the next direct abutter, he said. He agreed with Torbert Macdonald about the waivers. He had read the Conditions of Approval on the original plan. Based on the knowledge that additional lots would not be allowed without an additional road, in 1989, he was confident about buying his property. He asked the Board to consider not granting the waiver. As for the plan, when Joe Carr (the applicant) came to Mr. Kinton's house, Joe showed where the proposed driveway would be that was very close to his own property line. He thought that the lay of the land might restrict some things. In this case, trees near the lot line will have to be destroyed, and wetlands will have to be filled. That is near his property. He described his property as an island surrounded with wetland. He was not allowed to have a culvert. He asked why someone else should be allowed to have one. He finished up by proposing to have Mr. Carr access the properties by a common driveway, eliminating the cutting of trees.

Brett explained the next step would be another review before the Board. Steve Burns noted that the wetland analysis for the property does not meet the New Hampshire Method.

The Chair closed the Public Hearing.

Barrie Munro and Mike Estes moved and seconded to accept the application for review. The vote was 4-1, with Torbert Macdonald opposed.

Barrie said that the regulation had no bearing any more. The lot count of fifteen is arbitrary. Dave Marshall said that the access to back land and a possible 16<sup>th</sup> lot wouldn't work, anyway. Glenn Farrell suggested that when the regulation was enforced, the Planning Board was trying to prevent further development on the land beyond this road. Torbert Macdonald said that current application is the attempt to get around a restriction imposed in 1989. Mike Estes said that when someone is allowed to put a road into the woods, the Board is opening the chance of developing landlocked land. A second access for two or five more lots is against the safety-interests of the town.

Barrie Munro made the motion to grant the waiver of 9.5.8. Mike Estes seconded the motion.

In discussion Dave said he did not like seeing islands of land among wetlands determine how lots will be carved out. Torbert Macdonald said that it was the intention of the 1989 Planning Board to limit the potential to 14 lots on that land. Barrie Munro said that he was a member of the 1989 Planning Board, and it was not their intent to save that piece of land. Dave Marshall said that he would approve for one additional lot, but not two. Barrie agreed that one could be accepted, but any additional lot would require its own access. Mike Estes said that if the Board created another access, it would be dangerous.

Referring to the motion he had made, Barrie qualified that one additional lot should not require a secondary access, but any more lots, beyond that one, would. Dave Marshall moved to amend Barrie's additional language to the motion, which Barrie accepted.

Joe Carr said that the two lots under issue have the biggest building envelopes of all. They are the best lots of the entire subdivision. Barrie Munro replied that the best-lots rationale is not the one to help determine what should occur in the future. Torbert Macdonald asked if joint driveways were possible. Mr. Carr said that he did not wish to cloud neighbor-to-neighbor relations by forcing them to share 300 feet of land. Steve Burns then said that a shared driveway wouldn't work in the situation.

Mike Estes asked why the property is considered "bad" land, to which Torbert replied that the bony, granite ridge that runs through it inspires that label.

Barrie offered to withdraw his motion, if the Board could table the application and have a site visit. Joe Carr said that the property is all flagged and ready for them.

Dave Marshall moved to table the application until the Planning Board could make a site visit. Barrie Munro seconded the motion, which passed, 5-0.

Fiandaca Subdivision, Map 38/Lot 49. Preliminary review for change from 10 seasonal cottages to 5 residential homes.

There are 10 seasonal cottages that would be replaced with 5 condo units. A 6<sup>th</sup> condo would be where there is now an existing home. The cottage buildings would be knocked down and replaced. The existing home would remain. Jeff Aleva, with Civil Consultants, represented the applicants. He said that commercial uses do not work for the property, so the Fiandacas want to pursue condo development. The driveway will be a one-way loop. There is a gravel way off Route 1-A that will be for pedestrian access. The property is on city sewer and water. Barrie Munro said that, when this was approved, 9 or 10 years ago, there was a drainage concern. Jeff Aleva answered that now there is a gravel, loam, and seed design solution for the drainage concern.

Barrie Munro and Mike Estes opened the Public Hearing. George Restucca said that he first saw the property in the 1940s, and that this will be a vast improvement over the cottages. There was no one else to speak. The Public Hearing was closed.

Steve Burns said that this is a subdivision, and there is no pre-determined requirement for a landscape plan. Brett said that the abutters, who have come in, have been enthusiastic about the change. There are issues surrounding the right-of-way, which Jeff Aleva explained. The Fiandacas have allowed someone to use the right-of-way through the years, though that person is not entitled to use it, automatically.

Barrie Munro and Mike Estes moved and seconded to accept the application for review. All approved.

Barrie Munro and Mike Estes moved and seconded to give preliminary approval.

In discussion, Torbert said that the Board has required landscaping plans from every applicant, unless natural vegetation has been present in abundance. In Section 7.3.1, the Board is given the power to require a landscape plan, which he didn't think should be overlooked. Dave agreed that a project like that should have a plan. Barrie added that the Board would require a buffer to be defined. Steve Burns said that there are no regulations of that kind for a subdivision. Torbert Macdonald said that Section 7.17 is the landscaping standard for a subdivision. Steve Burns suggested letting someone other than an architect be able to draw the plan.

The Chairman called the vote, and approval of the preliminary plan passed, 5-0.

Stonewall Kitchen, Map 41/Lot 9A. Plan amendment for proposed retail addition.

Jerry Lewis, the Director of Operations at Stonewall Kitchen, described the 6,000 sq. ft. addition to house retail space, a café, and office space. He hoped to break ground soon. Bill Anderson showed the site plan. Architect Steve Fleshman displayed the new addition to the “growing Maine farmhouse” concept, relating design, materials, lighting, measurements, and pedestrian traffic information.

The Public Hearing was both opened and closed. No one spoke to the application.

Steve Burns said that the retaining wall should be acceptably far enough from the wetland. The Fire Chief has not yet reviewed the plan. Glenn Farrell thought that the green, metal roof might fade. Barrie Munro thought that the change in texture from the gray would be nice. Dave Marshall liked the pitch of the roof. Steve commented that they were taking out landscaping and replacing it with building.

Barrie Munro moved to grant acceptance of the application with conditions: that a CEO verifies that the roof is within the ordinance on height; that the Fire Chief gives approval of the plan; that the landscaping that remains is protected and retained; and that the drainage is as it was set up in the original plan. Glenn Farrell seconded the motion.

In discussion, Dave checked that the Stonewall group was planning to use cedar shakes, and the answer was, yes. Mr. Fleshman said that they go with natural material in all the places where the public goes.

That vote was called, and passed, 5-0.

#### Other business.

Traffic Guard. In response to a letter which had been received from the Assistant Superintendent of the School Department, Barrie, Glenn, and Dave had met with the Chief of Police. The school is asking for a period of time, one month, to come up with other solutions than having a police officer supervising the after-school crosswalk.

Barrie Munro moved to grant the approval. Dave Marshall seconded the motion.

In discussion, Glenn said that if the school solution were not acceptable, the Board would have to insist on putting the policeman there, again. Torbert said that he knew a child who had died at the intersection in question, after being hit by a car, and he believed that the full level of safety must be kept. Dennis O’Neil stuck his head out of the AV shack and gave a testimony that the traffic goes very fast and is terribly dangerous there.

Barrie Munro restated his motion, to grant a one-month hiatus for the police office in front of the school. His motion would not grant, he specified, a hiatus for the officer at the corner of Organug and York Street. The motion passed, 5-0.

Ordinance Re-Write Glenn Farrell said that he attended the meeting on the prior Monday night for the Ordinance Re-write, and he had with him a letter to the Selectmen for the Board to read. He felt that a lot of voters have stated how they feel and to let them vote on it. He said it is a fine beginning for additional committees. The new material is better than what York currently has, he said and was personally ready to send it to the voters. He asked for a motion to sign it and send it to the Selectmen.

Dave Marshall said that he would agree to go the upcoming Monday-Tuesday meeting that Glenn could not to attend. Torbert Macdonald made the point that no Board meeting alone was ever was dedicated to the ordinance issue, and should have been. Ordinance meetings were always shared with other boards, especially the selectmen. Torbert discussed his further disappointment in and disagreement with the process, and said that he would not be signing the letter. Dave

Marshall said that the vote to move the ordinance forward could be made that night, or next Tuesday. Barrie said that he is interested in hearing what the lawyer who will be at the next meeting will say.

Chairman Farrell adjourned the meeting. It was 9:45.