

**TOWN OF YORK PLANNING BOARD
THURSDAY, FEBRUARY 23, 2006, 7:00 PM
YORK PUBLIC LIBRARY**

Chairman Barrie Munro began the meeting at 7:10 by introducing the board and the staff. Barrie Munro, Richard Smith, Glen MacWilliams, Tom Manzi, and alternate Lee Corbin were present. Glenn Farrell, were absent. Michelle Moody's resignation was effective as of February 15, 2006. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting was televised. The chairman asked Lee Corbin to vote in place of Glenn Farrell.

Six members of the Board of Selectmen attended to participate in the Planning Board/Board of Selectmen quarterly meeting. Chairman Dave Marshall, Vice Chairman Dwight Bardwell, Torbert McDonald, Dwight Bardwell, Len Dorrian and Mike Estes were present for that meeting. As well, Town Manager Rob Yandow attended and participated.

Public Input Open to the public to address any issue.

Torbert McDonald spoke as a citizen, rather than a selectman, about the approval of the Atlantic House application, which took place two evenings prior. He said that a 19th century village like York Beach could not maintain modern parking standards. He said he had sponsored the ordinance that gave the Planning Board the ability to waive parking requirements, the key to the approval of the Atlantic House application, and he was glad it had come about. A consequence is that other applicants will line up for same treatment, but each case is unique and individual and has to be handled as such.

Charlie Stacy of Radon Road said that the Planning Board should not be as lenient toward contractors as it is. Plans should first be complete, and then the board can say "yea" and approve it. Half-baked plans are forever coming back. Ordinances should not be changed, and there should not be a change to the height limit in York Beach, he said.

The chairman moved on to discuss Item 37, Motion to Reconsider, from *Roberts Rules of Order*. The rule concerns further consideration of a motion already voted on, in this case, a motion to incorporate a certain plan note that was part of the approval of the Atlantic House and was made February 21, 2006. The motion had been made and passed without the board's having proper time to consider it, he said. The plan note was about changing hours of operation for the off-season.

Motion Richard Smith moved to reconsider the motion regarding the off-season hours of operation at the Atlantic House. Glen MacWilliams seconded the motion

In discussion, Glen MacWilliams described the situation. Project engineer JoAnn Fryer gave the board a lengthy description of the activities in the building based on hours of

operation. The applicant, Don Rivers, had presented the plan note and then it was voted on. One audience member, Joe Lipton, said that the information about the changed hours of operation was not made available to the public, which, he said, was an error on the part of the Planning Board. Steve Burns said that a hearing on reconsidering the matter would occur March 9, 2006, and that hearing would only concern the hours of operation and no other aspect of the Atlantic House application.

Vote The motion to reconsider the motion passed, 3-0, with only Barrie Munro, Richard Smith, and Glen MacWilliams voting, as they had attended the original meeting.

Business

1. **Finalize review of Bayberry Ridge Elderly Congregate Housing. 14 Styles Lane. Map 94/Lot 84R. Application for Final Review of a 17-unit elderly congregate housing subdivision with Community Center. No Public Hearing.**

A public hearing was not necessary, as this was a continuation of previous hearings. Referring to the February 21 engineering review letter from Edwards and Kelcey, Portland, Steve Burns said that minor changes are recommended. Applicant Walter Woods put structural plans on the easel, and there was discussion between him and Glen MacWilliams about the required, certified architectural plans, which had not been included. Steve Burns listed the required documents, including the town attorney report, the building plan, and the department head signoffs. Also from the original list of items needed for completeness were the state permits, plan note changes, stump disposal information, the description of elder congregate house, and other requested documentation.

Turning to the definition of elderly congregate housing, Barrie Munro said the definition was put together well, however, it lacked the specific information that had been required at the last meeting. He went through finer points that required revision. Membership is not only an incident of ownership, but is for leasers and renters, as well. He asked to have clearer language about the community center and the contractual health service. Lee Corbin also contributed ideas about the housing association's decision making. At length, Walter Woods said he understood the changes and would go ahead and make them. Glen MacWilliams noted that the community center must be expressed as part of the common area. Barrie Munro said he would ask the board to read the definition and look at what is planned for the community center. He said he is looking for better accountability for what is permitted or disallowed. Glen MacWilliams brought up plan certification. Walter Woods said that neither law nor ordinance require it. Glen MacWilliams answered that State law does, which is part of ordinance requirements.

Motion Glen MacWilliams moved to accept the structural engineering plan and to request a certified architectural plan for the same building. Tom Manzi seconded the motion, which passed, 4-1, with Richard Smith opposed.

Motion Glen MacWilliams moved the to amend the description of elderly congregate housing, the bylaws, with changes in Article 3, Section 5 and Article 6, Section 3, and that, as part of 9.1, to specify that the community center is part of the common area. Tom Manzi seconded the motion.

In discussion Lee Corbin suggested changing a word “may” to “shall.” She thought that a certain parenthetical phrase should be eliminated.

Vote The motion passed, 5-0.

Barrie Munro reviewed **precedent conditions**, including architectural certification, the signatures from the four town department heads, and the State permit.

Motion Richard Smith moved to approve the applicant with the precedent conditions. Lee Corbin Seconded the motion, which passed, 4-1, with Glen MacWilliams against.

Walter Woods said that the stormwater permit was pending. He requested to go onto the property to begin blasting. The blasting preparation had begun, but the findings of fact state that he cannot start anything until there is a pre-blast meeting. Barrie Munro referred to Charlie Stacy’s advice given during the public hearing about allowing nothing to go forward until the application is complete.

Motion Glen MacWilliams moved to allow Walter Woods to begin blasting, even though some issues were outstanding. Barrie Munro seconded the motion.

In discussion, Tom Manzi brought up consequences. The Atlantic House had been allowed to pre-approval demolition, and now the board has ire among the fire chiefs. Questioning the urgency, Glen MacWilliams commented that it should not be done. Walter Woods said that he was losing market share and did not want to be delayed. The storm permit might take 30 days. Glen MacWilliams, Tom Manzi, and Lee Corbin said that they did not understand the liabilities. Walter Woods said that the liability is on his company and on the blasting company. Barrie Munro said that three people voting against the motion would not allow the blasting to occur. The motion was withdrawn.

2. **Public Hearing for Amendments to Zoning Ordinance**
 - A. **Professional Certification of Project Compliance**
 - B. **Condominium Conversion Standards**
 - C. **Lot coverage Limits for Municipal Facilities**

Steve Burns said there had been no changes to these amendments since the last meeting. The chairman opened the public hearing.

Selectman Torbert McDonald said that creation of the professional certification ordinance is a wonderful step toward making licensed professionals part of the process by certifying the outcome.

Steve Burns talked about the lot coverage in the proposed York Village Overlay District. Using a large photographic map GIS Manager Brett Horr had made, Steve Burns showed the outlines of district areas where 50% lot coverage will be the standard. Beyond this district and the new municipal property, land extending north all the way to Wild Kingdom has 25% lot coverage. The areas in the zone are already heavily developed.

Barrie Munro opened the public hearing. Torbert McDonald said that when the hospital expanded, storm drainage systems and buffering were big issues. Charley Stacy asked about the GEN zones around the state highway and the Wild Kingdom. Steve Burns talked about those GEN zones being made in the 1970s and 1980s. Charley Stacy recommended that boundaries not go past Woodbridge Road.

Mike Estes brought up the condo conversion amendments, asking if a condo has to be brought into compliance in order to be sold. Barrie Munro said that those with unresolved prior code violations could not be sold. If, after CEO inspection, it were determined not to be a dangerous building, it would be possible to condominiumize it. Lee Corbin read from Title 17, §2851, Dangerous Buildings, which describes conditions of dangerous buildings. Len Dorrian asked for a wording correction on Page 4, where the term Code Enforcement Officer is used redundantly.

Torbert McDonald and Barrie Munro discussed the condo conversions at the Atlantic House, areas that had been subject to hotel/motel ordinances. Barrie Munro said that applicant wanted condo conversions followed by full dwelling status, for which the planning board could not grant any permit. The Atlantic House has since decided going forward without condo conversion.

No one else spoke, so the chairman closed the public hearing. There was a question about whether a vote was necessary to pass the amendment forward to the selectmen for further public hearings, but it was not necessary to vote. The amendment was passed forward to them.

3. Public Hearing for Amendments to the Comp Plan. Conduct a public hearing on the posted draft of the Natural Resources Chapter of the Inventory & Analysis Section of the Comprehensive Plan.

Barrie Munro said the natural resource chapter was 60+ pages long. He opened the public hearing.

Torbert McDonald said that he had been pushing for the chapter to be written for years. He went over a few aspects that concerned him about conditions in York, including the fact that Route 1A is built on a dune along Long Sands Beach, making that road extremely unstable. He also said that there is a decline in the health of the Gulf of Maine. Water and watershed deterioration is progressive, and the watershed impacts the Gulf of Maine. He recommended putting the soil conservation intensity map from the 1991

Comp Plan into the natural resources chapter. He thought the chapter also should have a generic guide about where the soil is suitable. Torbert McDonald further said that though the York River is considered to be an exceptionally healthy river, the threats that exist to the river have to be addressed. Also, there is a pent up ability for people to put their boats in the water, in York. Also, rare and threatened species, like turtles and salamanders, do not get along with roads, so keeping un-fragmented blocks is important in protecting them. He recommended striking the information about prophylactic insect prevention, for there had not been many cases of equine encephalitis in the United States in any given year. He suggested that the author of that section of the natural resource chapter would benefit by the business of insect control.

Lee Dorrian said that Stedman Island should be addressed as a public Beach in the natural resources chapter.

Resident Helen Weinbaum commended the Planning Department for creating what she called a marvelous tool. Now that the scientific evidence is there, there will be development toward further protection of natural resources that this area is blessed with, she said. This is a giant step toward creating a base for well being in York. Barrie Munro returned the graciousness and thanked her for coming to the meeting.

The public hearing was closed and board discussion began. Glen MacWilliams said that the section about scenic points and scenic resources from the public roadways should be added. The views of the ocean from the roadways are particularly important to put there. They are the most significant resource we have in this town.

Lee Corbin said that the order, as presented, of putting the analysis before the inventory is backward. She thought the idea Torbert McDonald had conveyed about living with the possibility of arthropod-borne diseases should be looked at. The diseases affect animals, also. A neighboring horse to her had to be destroyed because of equine encephalitis, and it was devastating for everyone. Referring to Pages 57-58, Steve Burns said that he had wondered if the section about East Nile, Equine Encephalitis and Lyme Diseases belonged in the natural resources chapter. He said that there should be an awareness of the diseases, even if the board does not need to do something about them. Glen MacWilliams added that the list is also incomplete when it comes to the threat from disease. Proper management of these diseases has to have some relationship to the environment. Barrie Munro said that it would make big undertaking, when Phase two adds analysis and consequences to the information. Tom Manzi said we are blessed with not having to work with the likes of Cholera or Yellow Fever.

Steve Burns said that in order for the new draft to go onto the May ballot, it has to be posted by May 7, with notice in the paper and the new document ready by May 8. Barrie Munro asked what that was that would require a decision from the board. Steve Burns replied that the adaptation of the habitat manual and the identification of the specific species of salamanders and turtles had to be considered. The strategy for arthropods has to be taken out. There is the issue of Stedman Island being used as a beach. Also, the board

should decide if the inventory or the analysis should come first. An editorial session about the chapter ensued. Barrie Munro said he likes the analysis first because reading it gets the mental processes started. Lee Corbin suggested placing in an introductory paragraph that explains that the analysis is at the end. Tom Manzi said that to attract the readers, the data should be placed ahead of the analysis. A disclaimer at the front would recommend the approach. Steve Burns said that disclaimers on top of both the analysis and inventory would encourage readers to read the data before the conclusions.

- 4. Quarterly Meeting with Board of Selectmen. Discuss issues of mutual interest**
 - A. Postings for Final Public Hearings. Discuss input received at the public hearings and decide what to post for the final public hearings on ordinance amendments and the Comprehensive Plan.**
 - B. Passaconaway by the Sea. 1780 U.S. Route One. Map/Lot 0100-0027. Discuss consistency of the application with the Comprehensive Plan specifically with respect to the proposed sewer extension. No public hearing.**
 - C. Other Issues.**

4.A Postings for Final Public Hearings

The Board of Selectman, Dave Marshall, Dwight Bardwell, Torbert McDonald, Len Dorian, and Mike Estes pulled a table and chairs up and faced the Planning Board. Steve Burns said that this would be the final hearing for the Municipal Zone Overlay. He asked if everyone was in agreement with the professional certifications amendment. Selectman Mike Estes said that he wished it were a little clearer. Steve Burns said the day before, it had been used on the Sparhawk plan. There were indications that it should work. Chairman Barrie Munro asked if everyone was in agreement on Items 1 and 2, which had not received substantive changes, and they all concurred.

Regarding the York Village Overlay, Barrie Munro asked if there was any disagreement on the part of the board about the boundaries, the lot coverage requirements, or the language regarding litigation. The Selectmen said they understood the Ordinance. The ordinance was handed over to the selectmen. Steve Burns said that the ordinance will be posted for the public on March 15, and the Selectmen will hold a final public hearing on March 27. Chairman Barrie Munro asked if everyone was in agreement for Part A, and everyone answered that they were.

4.B. Passaconaway by the Sea

Barrie Munro handed out an informative document he had created to use as a guideline for this session. He explained he had looked in the Comp Plan for references about sewer in the Route 1-6 zone, the Route 1-5 zone, and Area 13, the Cape Neddick area, the areas through which the sewer would have to go toward Passaconaway. The Route 1-6 zone is a rural mixed zone, and all the uses at Passaconaway are permitted there. The Comp Plan does not encourage sewer in the Route 1-6 zone, but it encourages it in the Route 1-5

zone. Route 1-A gives an opportunity for improved water quality in the Cape Neddick watershed, but there is an issue of whether or not it is in conflict with the Comp Plan. Would this intrude into sewer capacity when other needy areas should have been addressed first? he asked. How it looks would matter. Hide it and make it look good. Keep it off the highway and out of sight, or make it look good. It must not have a deleterious impact on the town.

Mike Estes said he understood the Comp Plan would allow sewer to go as far as Logging Road. Torbert McDonald described his own view of development the 200-acre lot as contrarian. The Town should encourage the extension of sewer only to the south side of the Cape Neddick River. Barrie Munro said that there is not enough soil to put this project on septic. Glen MacWilliams, who had attended the recent meeting between some Planning Board members and the Sewer District, said that the district took a hard line with the notion that they would be able to reach the priority areas. Tom Manzi said that the board is going to find out that letting the sewer district go its own way is not legal. He read a section about sewer coordination with municipal planning and commented that the trustees of the Sewer District have no choice but to cooperate. Barrie Munro said that it was not a Planning Board decision, but a Board of Selectmen matter. Steve Burns said that the Sewer District's role had to do with capacity and infiltration. Dave Marshall said that capacity is not the issue, but the Comp Plan is. Torbert McDonald said that he wanted to see the numbers, specifically, how much capacity the Sewer District thinks it has. He said that serious problems were not being addressed. For example, what if the beaches are shut down because a development's sewage plan is way beyond capacity. Glen MacWilliams said that the Sewer District has already done a great deal to improve the quality of the sewer. Can it continue beyond the growth area? It can, if they have the economic power.

Torbert McDonald said there would be a new opportunity for development of the poorer land that is up there, if the sewer were extended. Richard Smith said that a forced main cannot be put in and then tell somebody else in the area that they can't use it. It has to be for all the people who live by it. Lee Corbin asked if the line could be tapped into. Glen MacWilliams said that the Sewer District has competency and capacity to do the engineering to do that work. He said that as the planners, the board has to make certain that what is done is consistent with the Comp Plan and determine in what direction the Sewer District needs to go. Dwight Bardwell said the people he knows on the Sewer District feel they can handle a significant build-out through Cape Neddick. He has seen nothing about the Passaconaway plan, but knows that the Planning Board and the public can be turned to for guidance.

Town Manager Rob Yandow said that he had received a letter from Passaconaway applicant Seth Spiller of Architectural Design on January 12. It requires a response, and only a response, within 45 days. Len Dorrian said that the letter specifically requests the sewer line to be extended to that property. He added that the Planning Board does not encourage the extension of the sewer district to that area. Steve Burns said that in the zoning ordinance for future Route 1 use, elderly use connected to public water and sewer

was approved as of 1995, and the Comp Plan agrees with it. Barrie Munro commented that there are anomalies in the Comp Plan. Torbert commented that the 45-day deadline was approaching. A waiver was needed. Tom Manzi eloquently compared the extension of the sewer line to the Lewis and Clark expedition, which led to the development of the Northwest. “Maybe York’s northwest should be developed,” he said. Torbert McDonald answered that there were other priorities. The Comp Plan calls for the focus on the core of the town. Mike Estes said that bringing sewer to Cape Neddick village is an important part of the Comp Plan. The Sewer District had indicated that there is potential sewer capacity for another 50 years before expansion would have to be considered. Len Dorrian said that detailed information has to come from the Sewer District. Barrie Munro said that the hazard would be the amount of additional building that will occur if the sewer line is available.

Rob Yandow said that the applicant was seeking a written response, not approval or disapproval. Barrie Munro said that if the Planning Board were polled, the answer would be no. Dwight Bardwell asked if that decision would be based on the impact statement. Barrie Munro answered that the Comp Plan has too many anomalies.

Steve Burns said that the Planning Board has not reviewed the project and does not know if the project complies with the Comp Plan. The applicant had asked if the sewer is consistent with the Comp Plan, the board went to the Sewer District, and they have not yet decided. Making a quick decision would be the best idea, to that the applicant’s investment is not yet extensive. Steve Burns showed a soil map. The majority of current sewer location is in favorable soil, but the majority of the town, including the majority of the area into which the extension of the sewer is proposed, is made of marine clay, less favorable for the physical sewer equipment. Tom Manzi said that the marine clay makes a drainage issue in a part of town where there is no drainage issue.

Lee Corbin said that the Planning Board has presented both sides of the situation, the Comp Plan position vs. the opportunity to assist stressed areas at no cost to the town. Torbert McDonald wrapped up the session by saying that from Kittery to Calais, people are ready to go in and build out the coast of Maine, if they are allowed to.

C. Other Issues

There were no other issues.

5. Minutes Review and approve draft minutes—February 9, 2006.

The only necessary change to the February 23 Minutes was the inclusion of the word “architectural” to the phrase about professional certification at the top of Page 4.

Motion Glen MacWilliams moved to approve the February 23, 2006 Minutes, as amended. Richard Smith seconded the motion, which passed 5-0.

There was no other business. The meeting adjourned at 11:10.