

York Planning Board
Thursday, August 8, 2013, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Todd Frederick called the meeting to order. A quorum was determined with five people voting: Chairman Todd Frederick; Board Secretary Lew Stowe; Brud Weger, Al Cotton, Jr.; and Peter Smith. Alternate Peter Smith was appointed as full voting for the meeting. Christine Grimando, the Town Planner, represented staff. Patience Horton took Minutes.

It was Brud Weger and Al Cotton's first meeting as full voting members. It was alternate Peter Smith's first meeting. There are vacancies for an alternate and a full member, who must be from the Beach.

Public Input

Open to the public to address issue other than topics scheduled public hearings.

No one came forward to speak.

Field Changes

There were no field changes.

Minutes

Minutes of July 25, 2013 were reviewed and corrections were requested.

Motion: Chairman Todd Frederick asked if there is a motion to approve the July 11 planning board minutes as amended. Lew Stowe said that he would make that motion, seconded by Peter Smith. 5-0

New Business

Public Hearings on Proposed Comprehensive Plan Amendments to be considered at the November 2013 Special General Referendum:

- **Sea Level Rise Amendments: Inventory & Analysis/Policy**
- **Municipal Separate Storm Sewer System (MS4) Amendment**
- **KACTS**

Sea Level Rise Amendments: Inventory & Analysis/Policy

Prior feedback required changes to the language, but those changes were not in policy, said Town Planner Christine Grimando. The amendment had to be posted again, but no further changes can be made at this point. Tonight, the board will vote whether to forward these four amendments to the November referendum so the public will decide on them, she said.

Todd Frederick opened and closed the **Public Hearing** on Sea Rise Amendment. No one came forward to speak. In discussion, Lew Stowe said there are alternative measures to sea level rise: 1) reinforcement, as in making sea walls; 2) accommodation, as in raising a building up; or 3) abandonment, as in retreating. Christine Grimando said the floodplain management ordinances direct certain things that have to be done to build in the floodplain. The sea level and the floodplain levels are connected.

Motion: Todd Frederick asked if there is a motion from a board member to move this along. Brud Weger said, So moved. Lew Stowe seconded. 5-0

Municipal Separate Storm Sewer System (MS4) Amendment

Christine Grimando said York has entered this program this summer. Through involvement, we will begin to learn new stormwater standards in the coming year. There has to be a strong basis in the Comp Plan stating why we're part of MS4 and what that means to the town. We are now contiguous with the Portsmouth greater metropolitan area and face urban problems, she said.

Chairman Todd Frederick opened and closed the **Public Hearing** for MS4. No one came forward to speak.

Motion: Lew Stowe said I'd make the motion to move it on to the November referendum. Brud Weger seconded. 5-0.

KACTS.

This is a regional organized transportation group for policy and funding. As part of the urbanized area, we have to be part of a regional group with shared transportation guidelines. We still apply to the State for transportation funding. Priorities in the region have shifted. Christine and Dean Lessard attend the quarterly meetings of a group that works as a team to set up long-term transportation goals for the area in terms of transportation funding. Chairman Todd Frederick opened and closed the **Public Hearing**. No one came forward to speak.

Motion: Chairman Todd Frederick asked for a motion to move the Kittery Area Comprehensive Transportation System Amendment on to the voters. Lew Stowe said he'd make that motion, seconded by Al Cotton. 4-1 (Brud Weger opposed)

Application reviews and Public Hearings

Sea Latch Motor Inn 227 Long Beach Avenue Map & Lot 0036-0082 Final Review of a major site plan for renovation and new construction on the site of an existing motor in.

Town Planner Christine Grimando said the application received approval at the prior meeting. It is an existing motel/motor inn that involves demolition and replacement of the main building, an increase in number of units, and significant change to the layout. This is final review.

Motion: Todd Frederick asked if there is motion for the board to accept the Sea Latch Motor Inn, 277 Long Beach Avenue, as complete for purposes of final review. Brud Weger said, So moved, seconded by Al Cotton. 5-0

Project engineer Joe Cheever said that on June 25, the final application was submitted to the planning board, but since then one more revised plan with two specific changes have had to be presented. For one thing, the board had asked the applicant to provide a gate that restricts access onto Eastern Avenue from the site. In a plan note we said we wanted to hold off on installing the gate for a year to monitor the traffic that comes in and out of the gate, he said. Christine responded with a memo and said that having the gate installed for a year without operating it is not possible. Joe Cheever's second situation that required a change in the plan is DEP's inspection of the 614 square-foot check-in building. DEP said the check-in building is in the C1 dune zone, and they did not issue a permit. We have stopped proposing building the check-in building with this application, but will do so with a later amendment, said Joe.

Joe Cheever reminded the board that they had asked us to do a **cross section** of Eastern Avenue to determine what shape it is in. On June 28, Ken Wood, head of Attar Engineering, did a test pit there to determine what type of soils there are. The first twelve inches was a brown firm sand and gravel. Under that is a hard packed silty sand subgrade. It is a good support structure for the sub-base. The existing surface would be scarified, graded, and compacted, and then the new 3" of gravel base would be compacted, modified, and crowned.

A maintenance schedule has been submitted by Terrance Parker for the **grass parking areas**. It is on the plan. It shows what watering and fertilizing are required, said Joe Cheever.

The **gate** will be electronic and operated with a keypad. Monitoring devices will be able to track what kind of uses the gate has.

Prior to occupancy, the vegetation will be cut down on the intersection with Weber Road. Speed bumps were proposed at preliminary, but from public hearings we learned they were not what the community wanted. The dumpster is stockade on three sides. The gate side will still be a chain-link screened fence. For ADA compliance, there are four handi-capped spaces. ADA accessibility is from parking spaces, to the elevator, through the building, and down to the pool deck.

The **Public Hearing** was opened and closed. No one came forward to speak.

Lew Stowe had done an analysis for the project from an ordinance standpoint. He pointed out that we are here to interpret the ordinance, not to approve something because we think it is a good project. He spoke about several examples. The Comp Plan is the guiding document for modeling ordinances. Use, density, non-conforming design, parking, sight distances, buffers, dumpster, and road condition are all aspects of the ordinances

and Comp Plan analysis. A major problem is Eastern Avenue. If we had the right through the ordinance to correct that, we would be demanding they upgrade the road to a commercial level. But we are not asking them to do anything. That is why I am saying what the ordinance is saying. It is a non-conforming lot. We would be writing waivers to do what they want to do.

Christine Grimando said we might not be in “waiver territory.” She offered to clarify items Lew Stowe had spoken of. Which might be waive-able? Which items are action-able and which are not?

- The road is an area where the board has some discretion. This is a substandard road. It is a fair area to require modest changes to the road and a gate.
- The applicant isn't obligated to upgrade off-site neighborhood drainage. Though there are drainage issues in the neighborhood, the applicant doesn't have to do that.
- With non-conforming design, they are improving or breaking even on every area of nonconformity that they are changing. The screened dumpster is a nonconforming issue that is being corrected. Parking lot coverage is not a non-conforming use as is currently allowed in that zone. There are structures that don't meet setback, but no new ones are going up as nonconforming structures.
- This lot is nonconforming for setbacks and lot coverage, but not in terms of use. Site distances are met where they should be. Parking is the one the board might rehash.
- Density doesn't kick in. It is a residential standard. This is not a residential project. Density is often thrown around in terms of lot coverage, but density means dwelling units per acre. Lot coverage is a standard we are concerned about. The number of motel units is not a density standard.

Parking Calculations

Joe Cheever said, optimally, there are 1.25 parking spaces required per unit. But for the current 76 units, 52 spaces are provided. That is 0.68 spaces per unit, below the 1.25 conformity. The applicant is proposing 83 spaces for 83 units, one space per unit. To lower the coverage, seasonal grass parking spaces are used. The parking area shuts down long before the frost. No sand or salt are used. There is no plowing in the grassy area. A plan for maintaining the parking area has been laid out.

Dumpster

Todd Frederick said that per 7.2.1, a four-sided solid stockade is required. The applicant proposed three sides of wooded stockade and that for one side, the gate, chain link fence with stockade slats attached to the metal set of doors will be used.

Christine said that **Nonconforming Structure** means a portion of a lawfully constructed structure does not meet all applicable dimensional requirements of the zoning ordinance. The perimeter buildings are not non-conforming because they are in the setback. Tearing them down decreases the nonconformity of the lot. The central building is not violating of any dimensional requirements.

Christine said the applicant is in excess of the currently allowed **Lot Coverage**, but they are reducing overall lot coverage with the reinforced grass.

Lew Stowe said the Board goes through Preliminary with an understanding of a vote in the final stage. This applicant is talking about adding seven more units, he said. My proposal would be that they make fewer units than that to help with parking and the lot coverage. The road is another issue. They should upgrade the road at the property line to a level that would withstand the traffic.

Christine Grimando asked if Lew Stowe would ask the board to vote on whether they have adequate parking under the ordinance. Have they proposed sufficient improvements at Eastern Avenue? They do not need a waiver because there are existing nonconforming. They are not proposing anything new with regard to lot coverage, so they would not need a waiver. They are not proposing to increase it. They do not have to request that they may continue to be nonconforming.

Lew said that in the case Sea Latch owns 50% of the road. The road currently floods out. It is a private way. Peter Smith asked if it is not a town road, do we have any authority to tell them to what level it must be upgraded? Lew Stowe said that yes, we do from a safety standpoint.

Motion: Lew Stowe made a motion to upgrade the road to a minimum of 18 feet, and that the load bearing be constructed to withstand the use of the dumpster and 12,000 pound trucks.

He said that the Board will never get “there.” It’s on the rolls of the Planning Board, he said. It’s in the Comprehensive Plan to upgrade those roads.

No one seconded the motion. The motion dies, said the chairman.

Joe Cheever said the check-in building causes the only changed plan in the set. That sheet is the first sheet. Joe will come back to the board with a new site plan amendment application. We would have DEP approval first, he said.

Christine said she hasn’t received final word from the stormwater review. She recommends that full reports must be submitted before she brings the Mylars back.

Chairman Todd Frederick read the items in 6.4, and he and the town planner reviewed the status of the articles.

6.4.1 All information on preliminary plan **OK**

6.4.3.1 Public water supply **OK**

6.4.3.3 Central Water Supply **OK**

6.4.4.1 Public Sewage Disposal **OK**

6.4.4.2 Private Sewage Disposal **OK**

- 6.4.4.3 Engineered Septic Systems **OK**
- 6.4.5 Letter to department heads **OK**
- 6.4.5 Landscape plan **OK**
- 6.4.7 Plan improvements **OK**
- 6.4.8 Reserved
- 6.4.9 Streets and boundaries **OK**
- 6.4.10 Open space **OK**
- 6.4.11 Cession to Town of public open space **NA**
- 6.4.12 Town agreement with proposed open space **OK**
- 6.4.13 Monuments **OK**
- 6.4.14 Site Plan Street and stormwater design **NA**
- 6.4.15 Soil sediment **OK**
- 6.4.16 Stormwater management **Pending**
- 6.4.17 High intensity soil survey **OK**
- 6.4.18 Cost estimates **OK**
- 6.4.19 Deed restrictions **NA**
- 6.4.20 Proposed topo **OK**
- 6.4.21 Elevation drawings **OK**
- 6.4.22 Plot plan **OK**
- 6.4.23 Waivers **High Intensity Soil Survey**
- 6.4.24 Elevation drawing **OK**
- 6.4.25 Performance guarantee **OK**
- 6.4.26 Code compliance **OK**
- 6.4.27 Findings of facts **OK**
- 6.4.28 Financial capacity **OK**

Motion: Brud Weger proposed a motion that we approve this project in accordance with all the different 6.4 articles that we've just gone through, with the condition precedent that the Mylars will not be signed until stormwater management has been received. Al Cotton seconded the motion. The motion passed, 3-1 with Lew Stowe against.

York Colonial Center. 4 U.S. Route 1; Map & Lot 0086-0001; Preliminary review of a major site plan and subdivision for a building with retail and office space on the first floor with apartments above.

Town Planner Christine Grimando said there are to be two buildings on a mixed-use site. One has been built. Twenty affordable apartments above retail/office space are proposed. These are follow up items from the prior meeting: open space common area, documentation of affordable housing and maintenance of its administration, pedestrian concerns, and septic and sewer hookup easements with the neighbor, and waivers.

Christopher Bandeau said a certified letter has been sent to York Housing Authority Director, Patricia Martine. Alfred Fricke had been before the board at an earlier meeting discussing different possible septic systems for the commercial space. He arrived on wet/dry use and issued a septic permit. There is an easement agreement showing transfer of the septic right. No construction or building permit will be issued until such time that

the restaurant is connected to the sewer system. That document has to be legally executed. Open space will be created by using the surrounding wetland that is connected to the back portion. It will have a swing set. The dumpster will be moved allowing for a gravel trail leading to the picnic area and swing set. Christine Grimando said the table and swing have to be moved eastward, outside of the setback. Todd Frederick suggested a wildlife-viewing platform.

The parking garage that was planned to be below the building has been removed from the plan, said Christopher. Brud Weger asked if there is a sidewalk to the road that might serve children or passengers on a bus. How would they get into the building from Route 1?

Christopher Bandeau explained building height. The building height from average finished grade is Elevation 67, and the distance to the median of the roof is 34.8 feet. The limit is 35 feet. He said the pitch could be dropped to lower the height, if the board wished. Christine Grimando said the CEO should be consulted about roof height. Also, the cupola should be flagged as potentially violating the allowable building height. Todd Frederick commented that the building improves every time the application comes back.

Brud Weger noted some sheets Christopher Bandeau used were different than ones the board used. Todd Frederick said that when any applicant comes back, it should be insisted that any revised sheet should come to the board. Brud Weger said that he uses 11 x 17 sheets a lot, and the board should consider allowing them.

The **Public Hearing** was opened and closed. No one came forward to speak. Christopher Bandeau said he is working with York Housing Authority to establish affordable housing at York Colonial Center. Per HUD standards, there are rental price limits for Workforce Housing and Low Income Housing. People who fall within a certain income limits, \$49,950 for two people, for example, fit into the definitions of the code. It is an experiment for the developer, but it seems it could work financially.

Christopher Bandeau listed the sections of 6.3 that do not apply to Colonial Village, including scenic resources. None of the sections of 6.3 that do not apply are waiver requests. The wetland to the back of the property cannot be considered the scenic resource in terms of its appearance. The Comp Plan identifies all the scenic resources in the town, and this is not on the list.

Christopher said he had gone to the Board of Selectmen to allow the sewer connection. Their decision was to allow sewer to connect to the apartments, according to the comprehensive plan, but not the commercial space. The soils had to be good enough to support the commercial space, and then the apartments above it could be connected to sewer as well.

Motion: Al Cotton moved for Preliminary Approval on Map & Lot 0086-0001, York Colonial Center, U. S. Route 1. Peter Smith seconded. 5-0.

Other Business

At 10:30, the board agreed unanimously to extend the meeting by 10 minutes.

When the Mylars for **Ellis Short Sands Restrooms** were signed by the planning board, the street name Penstock Road was listed on the plans. On subsequent plans, the street name was not there. Two possible actions to solve this situation had been recommended by the town attorney. One was to do nothing. The other was to rescind the approval and put the road on the Mylar.

Al Cotton spoke in favor of doing nothing. They are ready to move ahead, and this would hold them up, said Al Cotton. Christine Grimando added that not having Penstock Road on the plan did not make a difference. Having the Town Manager write a letter to the file to indicate the error and allow building permit would suffice.

During the review of the contract for the third party review of the **Police Station/Connector Road**, a typo was discovered.

Lew Stowe asked if when the reviewer brings people in on the project, how the cost would be added in. Christine said the information is in the Project Scope of Work page and the Fee Schedule page of the contract. Lew also asked for an ongoing status report.

Adjourn

10:40