

Planning Board Jurisdiction
Brown
7 Carriage Barn Lane
Map 51 Lot 37A

Jurisdiction is a threshold question when reviewing any application. It is usually handled casually as all parties agree that the official or board has jurisdiction to hear and decide the matter. In this case the Browns do not agree that the Planning Board has jurisdiction. Originally they agreed to submit an application to the Planning Board at the request of the Code Enforcement Officer but upon reviewing the facts and given due deliberation the Brown's conclude that the Planning Board no longer has jurisdiction. The Browns are hereby requesting that the Planning Board take a formal vote at the start of their review to determine if the Board has jurisdiction in this matter under the current ordinances.

The Town Attorney agrees that the ordinance was amended and that it is the Code Enforcement Officer who has jurisdiction for issuing Shoreland permit except in a concurrent review when the Planning Board is reviewing a project under another provision, such as a Route One Permit. There is no concurrent review on this project. The Town Attorney states that the Planning Board note was not amended and she feels that it still applies. That note was based on the fact that the Planning Board had original jurisdiction for Shoreland review as authorized by the zoning ordinance in effect at that time. The Planning Board review of the Broadbent subdivision under subdivision regulations was limited to lots 1 and 2 as noted on the approved plan. Any other review of Broadbent was under authorization of the zoning ordinance in effect at that time. The zoning change that occurred after the Planning Board approval of Broadbent nullified the note. This note cannot prevail when the citizens of York have voted to change the reviewing authority from the Planning Board to the Code Enforcement Officer.

Thank you for your consideration.