

**TOWN OF YORK PLANNING BOARD  
THURSDAY, MARCH 25, 2004, 7:00 P.M.  
YORK PUBLIC LIBRARY**

Chairman Glenn Farrell started the meeting at 7:00. Barrie Munro, Glen MacWilliams, and alternate Richard Smith, who voted in place of absent Dan Remick, attended (Dave Marshall came in at 8:10, during the middle of the Wallace wetland discussion, and began participating in the following agenda item). Town Planner Steve Burns represented the Planning Office. Patience Horton took Minutes. The meeting was televised. There were 2 motions made during the meeting.

Glenn Farrell announced that Dan Remick had sent his letter of resignation to the board, copies of which were handed out. Dan Remick felt he no longer had time to do the job effectively.

**Public Input Open to the public to address any issue other than issues scheduled for public hearings on this agenda.**

Jim Smith of Route 1A, York Street, referred to the amendment to the noise ordinance. For years he has been bothered by early morning noise from people, and particularly their blaring car radios, as they fill newspaper-vending boxes near the Harbor P.O. at approximately 3:00 a.m. to 4:00 a.m. The new ordinance would allow the boxes to be filled only after 6:00 a.m. or before 10:00 p.m.

Michelle Moody of the board of selectmen invited the planning board to a housing workshop along with York Historic Association members and the selectmen.

**Business**

**Richard and Therese Wallace. Discuss and possibly act on a request to exclude a wetland from the Shoreland Overlay District pursuant to zoning §8.1. The owner has evidence that the wetland is less than 4 acres in size and does not belong in the Overlay.**

Steve Burns explained the ordinance could allow qualified wetlands to be removed from the shoreland district. He described the subject wetland as having a road bisecting it, and he showed the area, near an inlet below the York River, on the map.

Attorney Jim Barnett said he represented the Wallaces, and that Albert Frick & Assoc. had been suggested as a consultant by the code office.

Jim Logan, soil scientist for Albert Frick & Assoc., described his own and the company's credentials, including 5 years of Global Positioning Systems (GPS) experience. The GPS enabled him to measure the Wallaces' boundaries without flagging. Delineation was determined with the use of GPS equipment carried in an assistant's backpack. They con-

cluded the calculated area of the polygon to be 3.77 acres, a measurement about which he was completely confident.

David Tibbitts of the York Conservation Commission said he believed that those wetlands are contiguous with the shoreland. He referred to sections of the Shoreland Overlay District ordinances and the 1987 Manual of the Army Corps. of Engineers, where it is stated that in the definition of “adjacent wetlands,” manmade barriers do not separate coastal wetlands, which would make the subject property a contiguous wetland to the coastal waters past Spur Hawk Avenue. He further said that because the culvert was rusted off, it appears that seawater washes up to that point from the salt marsh. He also questioned the accuracy of GPS hand-held units, particularly under trees. A survey is necessary to determine the true size, he said.

Helen Winebaum, whose property abuts this property, said she hopes there will be a full public hearing about the matter. She described how the October 31, 1991, “perfect” storm, and other storm surges have washed lobster traps up into Seabury Pond on that property. The huge culvert handles a tremendous flow of flooding from upstream. She gave the board photographs of perhaps  $\frac{3}{4}$  of an acre of marsh marigolds, indicative of there being some land not affected by salt water. Years ago, she said the appeals board had provided variances for a house to be built near this land, and when it was built, trees were cut without sensitivity. She stressed the importance of enforcing erosion control, should anything go in.

Michelle Moody said she does not want this change from shoreland to wetland to go through. She requested a full survey of the wetland and a public hearing on the matter.

Jim Logan from Al Frick rebutted Mr. Tibbitts’s earlier comments, saying that the jurisdiction must come from the town ordinance, rather than from the Army Corps. of Engineers. He said that culverts rust whether they are inundated with fresh or salt water. The marigolds would not exist on the uphill side, if there were a presence of any salt water.

Conservation Commission’s Davie Tibbitts answered that in the definition of wetlands, the town ordinance utilizes definitions in the Army Corps. of Engineers Manuel, which is why he referenced it.

Sumner Weinbaum said that the road was put in 1928 without an ordinance, but it is clear that both sides constitute one “hunk” of water. A separate survey should be made.

In board discussion, Richard Smith said that the obligation of measuring the land has been filled by the applicant, and the Town of York should have to hire an engineer to confirm the size. Glen MacWilliams said he agreed with the Conservation Commission that the land is contiguous with coastal wetlands. Also, the plus-or-minus-error-factor of 3,000 linear feet in the GPS measurement could make the difference between 3.77 and 4 acres.

Jim Logan stated again that there is no coastal wetland above the road, and it is not connected to salt water. Steve Burns asked what credentials Albert Frick & Associates has to back that statement. Jim Logan answered that the company has been delineating wetlands for 10 years, and though the State of Maine does not require certification in that area, the company has extensive and advanced knowledge in the profession.

Glenn Farrell concluded that it was not certain if the land was coastal wetland or not, and that a public hearing should be held. An independent party should go out and measure it. Richard Smith asked who should pay, as the applicant had already paid. Steve Burns said that the applicant should.

Applicant Theresa Wallace said that she had hired Al Frick & Assoc. at the suggestion of the town CEO office. If the town needs another analysis, the town should pay for it, to which Barrie Munro, Glenn Farrell, and Richard Smith agreed. Glen MacWilliams said that the issues of the coastal wetland and the size of the property must both be resolved, and he made a motion.

**Motion** Glen MacWilliams moved that the matter go to public hearing and that the applicant be requested to provide additional information with a survey from which a decision can be made. Barrie Munro seconded the motion, which did not pass. The vote was 1-3, with Glenn Farrell, Barrie Munro, and Richard Smith opposed.

**Motion** Glen Farrell moved to have Woodlot Alternative determine whether or not the land is a coastal wetland, and that a public hearing should be scheduled. Barrie Munro seconded the motion.

**Friendly Amendment** Richard Smith made the friendly amendment that the town should pay for the cost of the Woodlot Alternative survey. Glenn Farrell accepted the amendment as part of his motion. The motion passed, 3-1, with Glen MacWilliams opposed.

**Preparations for the November General Referendum. There will probably be Comprehensive Plan and Zoning Ordinance amendments to be voted this coming November.**

**A. Timeline. Lead times and deadlines need to be worked out. A draft timeline is attached.**

Steve Burns explained the workshops and public hearings schedule through the summer.

**B. Comprehensive plan. Discuss draft chapters of the Inventory & Analysis drafted to date Population, Housing, and existing Land Use. If these are to be proposed for November votes, they need to be reviewed by the Board and amended as necessary.**

Steve Burns and Brett Horr, Geographic Information System (GIS) specialist with the Planning Office, made a PowerPoint presentation to show the board and explain the 5 custom-made maps developed for these chapters. The population map showed a flow in

summer from about 13,300 year-round residents to the 26,000 residents-plus-visitors. Overcrowding in York is not from poverty, as it is in many other places, Steve Burns analyzed. It is from people trying to get close to the beach. Brett Horr, who made the maps, also showed the land use map, a map of un-fragmented blocks of land, as well as two maps displaying construction trends covering 1981-1999 on the first, and of 1999 to the present, on the second. Through the computer, he was able to filter out the icons depicting new commercial buildings, showing placement of new residential projects with such accuracy and detail that even street configuration in housing subdivisions could be determined.

Glen MacWilliams thought it would be good to know how many people are connected to maintenance, production, and other aspects of the housing industry. Steve Burns answered that the economic chapter is coming, and that information could be explored in there. The natural resource chapter was being developed at the time, and the transportation chapter was slated following the natural resource conclusion. When the map of un-fragmented lots was displayed, Glenn MacWilliams suggested the buildable lots should be separated from those not available for development. He also believed that to increase the quality of the data, some information should be purchased, rather than downloaded for free, as this information was. Brett Horr said that there is more accurate data, but the software investment to handle it, plus time and his training to learn to use it, will rise above \$5,000.

**Ordinance Amendments. Discuss ordinance amendments for November 2004 General Referendum.**

Glenn Farrell said more precision of language was needed in Amendment 3.

Steve Burns showed the reconfigured zoning maps. Reorganized zoning will eliminate lots split lots more than one zone. A GIS-created map showed the boundaries as they stand and how they will be when the edges of the land parcels form the borders of the zones.

**Impact Statements for May 2004 Zoning Amendments. The Planning Board is required to prepare impact statements for each amendment it proposes. These need to be finalized.**

Steve Burns said that impact statements have been returned from selectmen and handed out to planning board members. Input should be given back to the selectmen during their upcoming public hearing.

**Other business/Adjourn**

Steve Burns said that S&J Collision have handed in an application for which the board had requested a wetland assessment. He asked board members should go out and see the site before S & J comes for an upcoming hearing. The meeting was adjourned at 9:30.