

**TOWN OF YORK PLANNING BOARD**  
**THURSDAY, JANUARY 27, 2005, 7:00 PM**  
**YORK PUBLIC LIBRARY**

Chairman Barrie Munro began the meeting at 7:00. Barrie Munro, Glenn Farrell, Richard Smith, Glen MacWilliams, Tom Manzi, alternate Lee Corbin, and alternate-elect, but not sworn in, Michelle Moody attended. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting was televised. Two motions were made.

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

No one came forward to speak at that time, but Brian McGann, who missed the public input, was given a chance to speak later in the evening.

Barrie Munro announced that the February 24 and March 24 Planning Board meetings would be held across the hall in the library's little conference room and would not be televised.

**Election of Vice Chair. Vote to fill the vacancy left by Dave Marshall.**

Chairman Barrie Munro explained that the position of Planning Board Vice Chairman was vacant because of Dave Marshall's un-expired term, and he asked for nominations to fill the spot. Richard Smith nominated Glenn Farrell, and Tom Manzi nominated Glen MacWilliams. All six members, including Lee Corbin, voted on secret ballots, which were counted by Brett Horr of the Planning Office, who announced that Glen MacWilliams had won.

Barrie Munro said that someone had to replace Dave Marshall as the Planning Board representative appointed to the York Harbor Design Review Board, most likely as its Chairman. He said that Glen MacWilliams had particularly good qualifications, being an architect. Glen MacWilliams replied he would be willing to do it.

**Applications**

**David Woods' Project. 459 U.S. Route One. Map 48/Lot 22. Conclude consideration of an application for a Route One Use Permit**

Board member Glenn Farrell stepped down in order to represent David Woods's Project. Barrie Munro asked Lee Corbin to vote in Glenn Farrell's absence. Steve Burns updated the outstanding issues from the December 2004 hearing, including Architect's Certification, Mylars, sidewalk/driveway issues, landscaping, shared parking spaces, easement metes and bounds, and lot coverage (83%), all of which information seemed to be complete.

Samples of the proposed “new wood” concrete siding materials were passed around for the board members to examine. Applicant builder Glenn Farrell described how the material would be drilled through and then nailed onto the building. Barrie Munro asked the board for opinions of the proposed siding material, particularly its aesthetic value. Richard Smith recommended it, saying it looked like wood and would maintain better than wood. Tom Manzi said he saw its advantages over vinyl.

Glen MacWilliams said that the product is one of many alternatives that might come before the board. It is made of cement and other materials, but he was not really sure what the siding was made of. The board should establish criteria to go by for such products, perhaps requiring review of manufacturers’ safety data sheets. Whether it will be painted and what kind of paint will be used are factors to consider. He asked about cost savings. And he said that the ordinance calls for wood. Barrie Munro said that there is no Planning Board precedent for permitting substitute siding materials. Glen MacWilliams asked if the approval for that material would be for the Woods Project application only. Barrie Munro cited 6.13.4, which calls for wood, clapboard, stone, or brick siding, with compatible accents, but does not consider today’s new forms. Section 6.13.2 deals with overall architectural value, but does not deal directly with finish material.

Responding to concerns over the content of the siding, Glenn Farrell said that as a stone-based siding, the material is safe and non-toxic when cut. It is primed with one factory coat of paint. Its cost is lower than cedar, but the labor is more intensive, making it initially more expensive. Chairman Barrie Munro asked the board if the material satisfies the intended appearance requirements in lieu of 6.13.4 and 6.13.2. Michelle Moody pointed to 6.3.13.4, which states that the board may grant waivers for materials of equal or greater quality, making it okay to accept a product if it is a better end product. Lee Corbin agreed with Michelle Moody’s interpretation of 6.3.13.4, adding that the siding is a terrific substitute for wood, clapboard, stone, or brick. Tom Manzi said that formerly allowed building materials containing asbestos proved to be hazardous, but there was nothing apparently dangerous in this material. He recommended approval.

**Motion** Glen MacWilliams moved to accept the proposed material as an alternative for this (David Woods’s Project) application only. Richard Smith seconded the motion, which passed, 5-0.

Glen MacWilliams asked if the easement on shared parking was in the parking area alone or rather inside the boundary of the easement. Glenn Farrell answered that it was in the boundary of the easement, which had been laid out by metes and bounds. There was discussion about whether to sign the Mylar before or after departmental signoffs. Steve Burns explained that it did not matter. The Mylar would be held pending all signatures.

**Motion** Richard Smith moved to grant conditional approval as planned and discussed, pending signoffs by Town of York Police, Fire, Water, Sewer, and Public Works Departments. Lee Corbin seconded the motion, which passed 5-0.

**Cottage Place. Review question from owner about process for re-siding the buildings.**

There was no one representing the applicant, and Chairman Barrie Munro indicated the Cottage Place request would not be taken into consideration at that time.

The discussion about alternative materials continued. Michelle Moody said that all people who come in for a change of materials should be treated the same, and the change should be made into a plan note. Glenn Farrell, who had returned to the board, said that the general aim was to have buildings look New England-y in appearance. Applicants should bring in pieces of the material. Barrie Munro said that changes should be approved on a one-time basis only. Steve Burns said that if the change is an amendment to the plan, the applicant should bring the material in. Barrie Munro said that the ordinances are out of step with today's technologies. If an applicant wants vinyl, it has to be properly applied for.

**Comp Plan Amendments. Monthly review of work status.**

**A. Content**

**1. Utilities Chapter: Brett Horr to review work to date.**

Brett Horr, GIS Manager, Town of York Planning Office, walked through the new Comp Plan chapter, Utility Chapter, Comprehensive Plan Inventory & Analysis, which he had authored with research assistance from intern Nate Hastings. Brett Horr said that some of the information has been hard to get. Homeland Security rules have made his approach to pinpointing wireless tower locations convoluted and a little puzzling. He explained how he was permitted to trace certain existing maps, rather than scanning or downloading the maps directly. He learned that the list of producers for the Central Maine Power is 16 pages long, and that CMP no longer generates power at all, but manages its distribution throughout the state. He plans to create a map showing the areas of York with elevations above 190 feet to which the Water District has difficulty delivering water. On a water resource map he had made, he showed how three different water districts (York, Kittery, and Kennebunk-Wells) serve York, reaching 31% of the town. He also had a map illustrating Time-Warner Cable's service, and another map showing the electricity supply.

Glen MacWilliams asked about a stormwater report. Brett Horr answered that accurate contour information is hard to find. Radar has a problem getting the information because wetlands absorb the radar signal. Steve Burns said that the planning office is working on obtaining the information through traditional contour extraction analysis that will be more accurate. The drainage study will wait until the contour study is finished. The cost of the contour study will probably be shared with the Water and Sewer Departments.

Brett Horr described Digital Subscriber Line (DSL) and Internet Subscriber Provider (ISP) services from Verizon. There are no wireless Internet connection hot spots in York, which can be addressed for future policy. Steve Burns thought there should be an analysis of cell phone providers, including Sprint and Verizon. With greater background knowledge, the Planning Board would be better prepared when the providers come in

with applications. Tom Manzi asked about fire alarm distribution throughout the town. Glenn Farrell explained that buildings are rigged directly to the fire station and fire alarms are not a public utility. Steve Burns said that hopefully next year's Inventory & Analysis work would include public facilities like fire, sewer, and water. He described how some inventory maps would be accessibly called up digitally. Glen MacWilliams suggested that the 11 x 17 format is particularly "do-able" in that it can be manageably reproduced. A larger map might not.

**2. Natural Resources: Steve Burns to review work to date.**

**3. SMRPC Contract: Steve Burns to review work to date.**

Steve Burns said that many people are working on the Natural Resource sections, including subjects of Geology, West Nile Disease, and Scenic Inventory and Resources. He had received seven plots, but not accompanying text, from NRCS Soil Conservation Service. The maps featured information, like "soil limitations for development," but there was no text explaining what that meant.

Barrie Munro said that the Table of Contents would be developed as the work goes along. Steve Burns said that help is needed on the list of rare and endangered species and wondered if all individual species have to be listed, which he said made him a little uncomfortable. The York Schools Science Department is interested in having students help. Steve Burns said that during the Highland Farms application process, he had been asked what species the board is concerned about. He said he had no idea. The process should identify what species people are interested in. Then the question is, what to do about it.

Barrie Munro said that the chapter might not be complete to the board's satisfaction by the time it goes on the warrant. The public should not think this is just a revamp of the 1991 Plan. This chapter justifies the reason why the Rural Zone Ordinance is the highest priority item for change. Steve Burns said that there was very little information in the earlier Comp Plans, especially 1970 and 1980. The transportation chapter did not even say how far York was from Boston or Portland. With any chapters, if there are policies that need to be changed, they should be changed as a distinct step before changing the codes. He said that \$10,000 had been earmarked for hiring a consultant who will gather information in different categories and give different scenarios, including economic and industrial projections, based on different factors.

**B. Draft Timeline.**

Referring to the handout called Timeline for November 2005 General Referendum, Steve Burns described the schedule, including three proposed public hearings for the Comp Plan Amendments. Public hearings begin in April, so changes can be made without rushing. There is more of a squeeze during the period when Planning Board and Selectmen meet together, because the turn-around time is shorter.

**4. Ordinance Amendments. Monthly review of work status.**  
**A. Content.**

The document referred to in this portion is called the Proposed Ordinance Amendments to be Considered at the November 2005 General Referendum, Draft: January 21, 2005.

Steve Burns said that the Planning Board will eliminate Amendment 1, Rural Zoning Districts, because there is not enough time to address the original proposal about rural zoning, largely because so much time is required to prepare the Natural Resources chapter. Barrie Munro said that it is a complicated amendment, and communicating it and getting feedback from the zones would be very difficult. Steve Burns said that the Rural Zoning Amendments might be attempted after this year.

Zoning Ordinance Amendment 2, Home Occupations and Permitted Uses. Richard Smith said this was the most important amendment, and it was a good chance to get it straightened out. Referring to language in 1.5.3, "Any business, occupation, or activity undertaken for gain within a residential unit," Glenn Farrell said non-profits were being excluded from home occupations. Lee Corbin suggested striking the word "gain." Barrie Munro agreed it should be struck. Lee Corbin asked how application fees would be enforced. Steve Burns said, by Code Enforcement. There was extended discussion of the three classes of home occupation, as broken down on the chart in 7.4.4. Richard Smith asked specific questions about starting a lawnmower as part of a repair business in Zone 2, and about the storage of landscaping equipment in Zone 3. Discussion went on to include the proportion of lot size allowable for work activities, the constitution of good neighbors, fencing, screening, viewscape and a other considerations.

The problem with the classes of home occupation, Steve Burns said, is that they are permitted by zone, but RES-1 zone does not line up with where RES-1 was in the past. Where the classes are assigned should not necessarily be where the zones are. Pine Hill Road and South Side Road are examples that call for different classes. He proposed to incorporate the work classes that can be changed to how the board wants the boundaries to be. The chart defining the uses will also be map-based. Route 1 will stay as it is.

There was a break and a public hearing before returning to discussion of Amendments.

**Public Hearing** The public hearing was re-opened for Brian McGann to speak. He said that last November, a warrant was accepted allowing a Maritime Zone in York Harbor for boat building businesses and maritime activities. The size of the boats produced there would be restricted to no greater than 26 feet, and they have to be wood, not plastic or composites. He said he hoped to build a barn on his property, which overlooks South Harbor, within the maritime zone, where a boat builder could build and conduct a school. He accredited Selectman Torbert MacDonald with the idea. Brian McGann said that there are three boat-building schools in Maine, and all graduates find work immediately. He would hope to tie part of the school on his property into the public school curriculum. It would be a for-profit school, run by the builder. The restrictions on building the barn are not so much caused by the shoreland setback, for the land is high enough that the barn

may pierce the setback only minimally. Rather the front of the barn, which would be parallel to the road, may need “wobble room” and a variance in the setback. Steve Burns added that it is a conforming lot with a conforming house. Glenn Farrell suggested that Brian McGann go ahead and do the preliminary work, and then come back to the Planning Board.

### **Ordinance Amendments [Home Occupations and Permitted Uses, Cont.]**

Continuing with Amendment 2, Home Occupations and Permitted Uses, Richard Smith asked about 7.4.5.C., retail activity. Steve Burns said that language forbidding retail activity was right out of the Comp Plan. Lee Corbin asked if it limited the sale of warehouse products. Barrie Munro said it prevented all retail activity.

Michelle Moody asked if 7.4.3.A., Instructional Services, even prevented a piano teacher in the Class 1 Zone from giving lessons. Steve Burns explained the difficulty of allowing instructions by describing a craft class with six students and the subsequent strain.

Amendment #5, Route One Design Standards, had been written by Planning Board member Glen MacWilliams. It required applicants with alternative building materials to submit samples of the materials as well as manufacturers’ Safety Data Sheets for board consideration before approval. The proposed ordinance amendment also requests life cycle cost- and human health- assessments supporting design standard waivers for buildings over 5,000 square feet. Glen MacWilliams said that that ordinance would allow the board the opportunity to ask for more information.

Certification was discussed. Steve Burns suggested requiring architect certification whenever a building is over 3,000 square feet. Glen MacWilliams indicated that the correct approach to certification had been covered in his October 13, 2003 Memo to the Planning Board. It was agreed to have that memo re-circulated to, and discussed by, board members at the following meeting.

Amendment 6, Net Buildable Standards, and Amendment 7, Regulate Right-of-Way, were considered complete, satisfactory, and were not discussed.

Amendment 8, Increase Buffers for Elderly Congregate Housing. Lee Corbin asked for clarification about the 65-foot setback. Barrie Munro also explained satisfactory visual screening.

Steve Burns described the changes in Amendment 9, Commercial Zones in York Beach.

Amendment 10, Structure Expansion Limits in the Shoreland Overlay. Glenn Farrell asked for clarification about required compliance to a setback of an addition. Steve Burns explained and drew a picture showing the house, addition, water, and setback.

Amendment 11, Alter Regulation of Condominium Conversions. Steve Burns acknowledged that good standards do not exist for this category, and that focusing on the building

as part of the administrative process was to be left to the CEOs. Glen MacWilliams asked to see an example of how approval of condo conversions is given.

Amendment 12, Traffic Impact Mitigation on Town Roads. Richard Smith asked what happens if sight distance cannot be achieved when a driveway is created. Steve Burns said that it has to do with the speed and classification of the road. Barrie Munro asked if there could be a non-buildable lot if sight distance is not attainable. Steve Burns said that the applicant could be turned away.

Amendment 13, Selectmen's Requests, had not yet been forwarded to Steve Burns.

There was discussion about a bus as a structure. A ploy of parking a bus on a piece of property and calling it a structure had been used in some town to prevent certain permitting deadlines from being met. Steve Burns said, "We need to figure out how to prevent the situation from happening to us."

Amendment 14, Septic System Setbacks in the Shoreland Overlay District. Richard Smith said that Mike Cuomo had advised that the board not jump into the issue. Glenn Farrell asked if Mike Cuomo could come before the board to discuss it. Michelle Moody said that the Planning Board had been interpreting shoreland setbacks a certain way for a long time, and that the board wanted to continue enforcing it the same way in the future. Steve Burns said that Cathy O'Connor had introduced an interpretation in the early 1990s that overrode what the CEOs said, and that the Town Attorney's interpretation was better.

**DEP Approval/Denial of Ordinance Amendments. Review State decisions about compliance of Shoreland-related ordinance amendments passed by the voters last November**

Steve Burns said that a December 27, 2004 letter from Dawn R. Gallagher, Maine Department of Environmental Protection had approved all the Planning Board voter-supported ordinances.

**Other Business/Adjourn**

Steve Burns handed out an opinion by Town Attorneys Bergen & Parkinson, dated December 27, 2004, that the Water District is not public. Michelle Moody commented that it is private, but acts as if it is public.

Steve Burns said that thinking they do not need a plan, MDOT is intending to place a 120-foot communications tower across from Wild Willy's on Route 1. They might learn otherwise about the plan.

Steve Burns handed out an Elks Club newsletter and the Shoreland Zoning News.

Barrie Munro closed the meeting at 10:45.