

**TOWN OF YORK PLANNING BOARD
THURSDAY, JANUARY 12, 2006, 7:00 PM
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Before the meeting started, Planning Board members signed Mylars for the Sanford Institution for Savings.

Chairman Barrie Munro began the meeting at 7:05. All the board members were present: Glenn Farrell, Barrie Munro, Richard Smith, Glen MacWilliams, Tom Manzi, and alternates Lee Corbin and Michelle Moody. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting was televised. The chairman began by announcing that Planning Board alternate Michelle Moody and Conservation Commission member Stan Moody were planning to move to Topsham, Maine. Barrie Munro spoke of their dedication to York, especially in environmental matters. As well, he commented on Michelle Moody's tremendous knowledge of the Town and the Ordinances, that York owes them both very much, and they will be missed.

Note: Before the Kearsarge House application, several hours into the meeting, Barrie Munro announced that the previous day, Dunkin Donuts had withdrawn their appeal. There was no discussion about it at that time.

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

Representing the Conservation Commission, Stan Moody requested that the Planning Board pursue the Shoreland septic systems matter that was last on the agenda (without public hearing), with great diligence.

Requests for Field Changes. Decide on requests from previously approved applicants.

Barrie Munro read aloud the proposal concerning the Jay Fiandaca project. It concerned the time period and phases over which the project will remove buildings as new ones are built. The applicant proposed removing all the buildings within 36 months of receipt of the first building permit.

Motion Glen MacWilliams moved to approve the amendment to the plan. Glenn Farrell seconded the motion, which passed, 5-0.

Steve Burns asked for signatures at that time, which the board members provided.

Public Hearing for Amendments to the Site Plan & Subdivision Regulations

- **Professional Certification and Inspections**

- **Driveway Construction in Subdivisions**
- **Timeframe for Construction**
- **Impact Statement Requirements**

Barrie Munro asked Steve Burns for brief explanations of the four amendment categories. **Professional Certification and Inspections:** State law says that the towns can pass these regulations that particularly concern the kind of large-scale developments that are being proposed in York (as at the Wild Kingdom property). By requiring inspection and approval of the work by landscape and building architects, the burden of the approval is on the developer, not on the taxpayer, he said. This amendment, Professional Certification, is the only amendment going to the May referendum. **Driveway Construction in Subdivisions:** In this case, the decision of where to put driveways will be made by developers and no longer by the homeowners. **Timeframe for Construction:** A standard in the Codes for a time period for small projects, which can take a long time, is being proposed in this amendment. **Impact Statement Requirement:** This amendment is a step toward spelling out the language for impact standards. Barrie Munro added that this was an effort to clarify the regulations and ordinances in the pursuit of greater accountability.

Barrie Munro opened the **Public Hearing**. Helen Rollins Lord said that the Code Enforcement Officers should do the inspecting, because enforcement is very important. Steve Burns answered that another layer of inspection that the applicant is paying for is being added with this change. Helen Rollins Lord was also concerned about problems with fill in driveway construction, and Steve Burns answered that that issue was better addressed in zoning. **The Public Hearing was closed.**

In board discussion, Lee Corbin said she was concerned that a homeowner will be locked into an unwanted driveway location. She wanted to see more flexibility regarding their locations. Glen MacWilliams said that the engineered drainage and traffic concerns around the driveways are very important. Steve Burns proposed permitting two different driveways to be designed, and Chairman Barrie Munro asked that the language be created to so state.

Barrie Munro said that the requirement for an impact statement, which takes such things as transportations systems, traffic impacts, snow removal, and schools into account, has existed for a long time. Michelle Moody said that the number of employees should be estimated so the number of people moving into town can be anticipated. Further discussion of the Impact Statement will occur during the Planning Board meeting two weeks away.

Application Reviews and Public Hearings

- **Jeremiah Campbell 1537 U.S. Route One. Map & Lot: 0010-0007-B. Reapplication for Route One Use Permit to expand existing retail business.**

Steve Burns said the application was last reviewed at the December 8, 2005 meeting.

The **Public Hearing** was opened. Stan Moody suggested hearing the applicant before inviting the public to speak. JoAnn Fryer of CLD Engineers went over the changes that were highlighted on the plan—change in the retail space, creation of a residence and garage, and relocation of parking, handicapped parking, and the dumpster. The **Public Hearing was closed**.

Glen MacWilliams noted the absence of the architect's certification. JoAnn Fryer made note of it. Tom Manzi complimented how the window configuration with multiple, small panes of glass replicated old New England window design.

Motion Glenn Farrell moved to approve the Route 1 use permit. Richard Smith seconded the motion

In discussion, Lee Corbin asked about the excessive runoff around the dumpsters. Glen MacWilliams asked to amend the motion to conditionally make the Architectural Certification part of the approval. Glenn Farrell agreed to the amendment.

Vote The motion to approve the Route 1 use permit conditional to the inclusion of the architectural certification was passed, 5-0.

- **Union Bluff Function Hall, 4 & 6 Beach Street. Map & Lot 0024-0043 and 0024-0043-B. Re-application or Site Plan review to raze the theater building and construct a new function hall.**

Barrie Munro said that the Ogunquit Beach Club owns the theater building. The theater would be razed for the construction of another building. He opened the **Public Hearing**.

Bill Roach of 6 Gulf Street said he was attending the meeting with owners of Nos. 4 and 2 Gulf Street. They were all concerned about buffering and landscaping, as well as the traffic that will come to the area because of the Atlantic House renovation. They hoped to close off Gulf Street (private) except to emergency vehicles and pedestrians, and had spoken to the Fire Chief about it. If that is done, the Chief is asking for a certain material under the loam, so that fire trucks do not get caught up and sink. Bill Roach said his group is looking forward to the new function hall, and that its owner, Brent Merritt, has never been a problem to work with.

Michael Passanisi spoke next. He echoed that Brent Merritt has been a pleasure to work with. Michael Passanisi said he and his wife support the project.

Walter Cashman said he also fully supported the project. The chairman **closed the Public Hearing**, and people laughed when Glenn Farrell suggested that with all the positive comments, there must have been an open bar at the Union Bluff the night before.

JoAnn Fryer said that the traffic study was submitted with the Atlantic House traffic study. She said the function hall is a conforming use, and the proposed restaurant and

retail spaces are permitted uses. There will also be eight hotel suites on the top floor. She went over setbacks and lot coverage. The building height will be the same as it is now.

Motion Glen MacWilliams moved to waive the 6.3.32 requirement for a high intensity soil survey. Glenn Farrell seconded the motion, which passed, 5-0.

Motion Glen MacWilliams moved to deny the 6.3.33 waiver of the traffic study. Glenn Farrell seconded the motion, which passed, 5-0.

The board discussed issues surrounding the preliminary plan. Regarding landscaping, Barrie Munro said that anything that dies must be replaced. Electricity, which is planned to be underground, will be dealt with in conjunction with Atlantic House. There will be sidewalks by the building on Beach Street and Micelan Road, and solid waste and recycling pick-up will be in conjunction with the Union Bluff's. Board members recommended that steps to continue coordination of trash service should be taken, in event the ownership of the function center and Union Bluff changes. Function Hall hours of operation, 7:00 A.M. to 1:00 A.M., must comply with the town's noise ordinances. Barrie Munro asked for an elevation plan. The ordinance does not require one, but engineer JoAnn Fryer said one would be submitted.

The topic went to the parking plan. JoAnn Fryer showed a plot of an unused lot on Ridge Road next the Post Office. It has a 50-foot wide easement for a Central Maine Power travel access, which contains eight of the proposed 52 spots in the lot. Applicant Brent Merritt described how trolley service would pick up and return people back and forth to any function. He said that a gate would close the lot off, but that it would be open at other times for parking for the town. He did the math for the 76 required parking spaces which included the new lot, spaces for about 10 hotel rooms used by function-goers, plus spaces are already reserved at the Union Bluff Hotel. Barrie Munro agreed that the parking requirement was being satisfied. Steve Burns said that the added parking is a bonus, and that expecting that only 10 rooms be rented for a function is a conservative number. Glen MacWilliams asked if the shuttle and signage will be formalized in the plan, and Brent Merritt answered yes.

Ownership of Gulf Street was discussed. Steve Burns said that the Town Attorney looked at the site and indicated that the ownership extends out into the road from the abutting properties. The owners have the burden of proof to show what they own of the Gulf Street.

Motion Glenn Farrell moved to approve the preliminary plan. Glen MacWilliams seconded the motion, which passed, 5-0.

- **Bay Ridge Elderly Congregate Housing, 14 Styles Lane. Map 94/Lot 84R. Public Hearing. Application for Final Review of a 17-unit elderly congregate housing subdivision with Community Center.**

Barrie Munro read from a Steve Burns memo that the application involves 17 units and a community center for which preliminary approval was given in September 2005. The applicant was there to discuss application completeness.

Chairman Barrie Munro opened the **Public Hearing**. Stan Moody came forward concerned about the applicant giving a presentation as part of the hearing. Applicant Walter Woods described the housing units and the congregate care center. The subdivision will have Town Water and Sewer, and the Water will extend into Blue Stone Estates. The drainage survey had already been submitted and approved. He described the road, sidewalks, and retention area.

Stan Moody spoke as a citizen to the public hearing. He said he did not agree with the issues and problems of conditional permits and conditions on final reviews. The **Public Hearing was closed**.

Barrie Munro, referring to the Steve Burns Memo to the Planning Board, dated December 30, 2005, discussed completeness issues with Walter Woods: The letter from the Water District has been provided; the turning radaii problem has been corrected; the stop sign has been added to the plan; the final drainage plan is prepared; the note about the Shoreland no cut line is ready; Wetlands permits have been applied for but **have not** been obtained; Maine DOT has stated a traffic permit is not required; the site distance at Ridge Road and Styles Road was corrected over a year ago; The performance guarantee of \$208,000 is addressed with a plan note; the review by the Public Works director has been received by Steve Burns; the easement on the Woods house lot is in the package; the by-laws/covenants for elderly congregate lack certain conclusions about York Hospital services and cooking privileges; the Planned Unit Development information had not been turned over to the Town Attorney.

Motion Glenn Farrell moved that the final plan, as submitted, satisfies the requirements for completeness for purposes of review. Tom Manzi seconded the motion, which passed, 5-0.

Steve Burns said he had not yet seen Town Engineer Steve Bradstreet's review. Walter Woods said that Mike Livingston from Anderson Livingston engineers was trying to schedule an appointment to look at the pre- and post-development plans. Barrie Munro said that there were two waivers requested, both relating to Orin Lane.

Motion Glenn Farrell moved to waive 9.5.9, reducing the 24-foot requirement for the collective road to 20 feet. Tom Manzi seconded the motion.

In discussion, Walter Woods said that Fire Chief Bridges has no qualms about that road size, as long as there is room for fire trucks to turn around, and there is. The Chief had also requested an additional fire hydrant, which has been added.

Vote The motion passed, 5-0.

The second waiver concerned there being only one connection from the subdivision onto the main road. Barrie Munro said it that in developments of more than 15 units, the extra road connection was a requirement. He said he had never waived this rule, and he did not recommend it, because people can get trapped. Walter Woods said that the neighborhood would create less than 100 trips per day.

Motion Glenn Farrell moved to approve the waiver. Richard Smith seconded the motion.

In discussion, Glen MacWilliams said that he did not understand the rationale for a dead end street.

Vote The motion passed, 4-1, which Glen MacWilliams opposed.

Walter Woods said the soil survey had been retained from an earlier application. Glen MacWilliams said that certification is required. Walter Woods said he understood that he understood that Code Enforcement reviewed the plans after the board permits them, and that was all that was needed. Barrie Munro said that in the Route 1 district, certification is required. Steve Burns explained the rules for the common building certification. The required wetland permit, engineering approval of the drainage plan, legal review of the Planned Unit Development document, a definition of the elderly congregate service, and community building plans certification were all outstanding.

Walter Woods asked if he could go in and clear trees so he could bore for initial site preparation, including a water test. Anderson Livingston will define the no-cut buffer before then, he said. The board agreed to let him do that.

- **Kearsarge House 2 Beach Street, 4 Main Street, and 7 Main Street. Map & Lot 0024-0044, 0024-0043-A, and 0023-0008. Application for historic building conversion and expansion, with off site parking.**

Referring to a January 4, 2006 Memo to the Planning Board from Steve Burns, Barrie Munro said that the Kearsarge would have 19 year-round units and utilize the parking lot behind the Black Dog. He opened the **Public Hearing**. Stan Moody said that the applicant should discuss the changes in the proposal.

Harold Anderson, applicant and owner of the Kearsarge House, said that the efforts going into Kearsarge and Atlantic Houses and the Union Bluff, are not going to work, if parking cannot be found. He said he thought the problem was solvable. The **Public Hearing was closed**.

Barrie Munro went over several points made in the Steve Burns Memo, including Article 17, CEO approval of nonconforming space. Steve Burns said that the changes the applicant had made did not satisfy the direction the Planning Board and recommended, and the CEO has not given any direction on this. JoAnn Fryer, project engineer, said that she would ask the CEO do so. Also, the approval of the final plan was not ready. Sign-offs had not been obtained from the principle three: Fire, Public Works, and Police. Glenn

Farrell said that those signatures usually come later, after changes. The approval of sewer and water is not in writing. The buried propane tanks will be removed, said JoAnn Fryer. Barrie Munro asked that the applicant include a figure of how many parking slots would be required over time. Applicant Representative Peter Dunfey explained that one space per condo is required. The parking plan was professionally certified. Steve Burns said that the requirement that the financial capacity for this plan was in the file.

Peter Dunfey moved to the subject of proposed Conditional Use. Town Planner Steve Burns recommended the Planning Board not allow Conditional Use. The applicant would be applying for both residences and hotel space, and the intermediate uses are difficult to keep track of, he said. Peter Dunfey stated that he wished to rent lockout units with full kitchens, rather than 2-bedrooms condos with 100 cubic foot kitchen that meet hotel standards. He said that the success of the applicant's plan depended on the ability to do that. Richard Smith replied that the applicant would have to reapply for the change. Peter Dunfey says that the CEO has given approval for the condos. Richard Smith said if these are hotel rooms, they have to come to Planning Board. The applicant does not have the right to apply for residential units, he said. Peter Dunfey responded that both uses are permitted. He was asking for conditional use as a hotel until the growth permits are given for residences. Richard Smith said that the applicant was in this way circumventing the growth ordinance. Peter Dunfey said he wanted full kitchens for rentals, not for permanent residents. Steve Burns said that the applicant was looking at two approvals, which would be problematic for the Planning Board to go down that path. Peter Dunfey cited Section 18.16, saying that conversions of units shall not be made unless density is met. He then cited 21.2, that the stricter provision applied in the density regulations supersedes other density requirements.

Tom Manzi asked for the case in writing. Glen MacWilliams said that more information is needed. Michelle Moody said that they should not convert until they have all of the permits.

Motion Glen MacWilliams moved to consult legal counsel for resolution of the issues. Tom Manzi seconded the motion, which passed, 5-0.

Glenn Farrell said that there is a possibility of losing the density historic conversation by losing the grandfathering.

The discussion moved to parking. Project engineer JoAnn Fryer made the case that the customers of non-residential uses at the Kearsarge house, the restaurant and the retail uses, currently use paid parking. She proposed that that grandfathered, paid parking for those two non-residential uses should be continued. Nineteen spaces behind the Black Dog will accommodate the residential units. Several board members agreed that the argument had merit.

Chairman Barrie Munro then asked to hear the argument for off-site parking at the Atlantic House.

- **Atlantic House, 2 Beach Street, 4 Main Street, and 7 Main Street. Map & Lot 0024-0044, 0024-0043-A, and 0023-0008. Application for historic building conversion and expansion, with off-site parking.**

Project engineer JoAnn Fryer said that at the Atlantic House, the demand is for 153 spaces, including nine for residential units and 19 spaces for retail, based on square footage. Beyond the nine residential spaces, she asked that the applicant not have to meet the remaining 144 spaces. She pointed out that the restaurant would lighten demand by being open evenings only. Glen MacWilliams commented that the ordinance had been changed to allow some discretion by the Planning Board with regard to parking. Glenn Farrell said that he had hoped they would provide some parking beyond nine units. Peter Dunfey said that free enterprise would provide parking, to which Barrie Munro replied that the Atlantic and Kearsarge Houses had not demonstrated that (free enterprise parking).

be inserted “the ordinance had be changed to allow some discretion by the Planning Board with regard to Parking,’

The **Public Hearing** was opened. Bill Roach, a Gulf Street abutter, described cars circling for parking and looping up onto his street. He said that the lot behind the Black Dog is currently full, and when those cars are displaced, where will they go—not to mention the cars of owners and employees from the proposed new stores.

Kearsarge House owner/applicant Harold Anderson said that the parking lot behind Black Dog was not full, and that parking is an issue only five percent of the year.

Sandra Rhodes of 8 Main Street said that there has been a decline in people coming to the Beach. She said that more parking is clearly needed, and the individual applicants should try to get it. Barrie Munro **closed the Public Hearing**.

Chairman Barrie Munro said that there are enough loose ends that the application would not be approved that evening. The board will have to decide if it will waive 5.1.1.4, or if the applicant will have to look further for parking.

Adjournment

The meeting was adjourned. There were still outstanding items on the agenda including approval of the **December 8 and December 15, 2005 Minutes** and Other Business, which was to have decided on action concerning the **Shoreland septic systems ordinance as proposed by the Conservation Commission**. The time was 11:00.