

**York Planning Board
Agenda
Thursday, November 9, 2006, 7:00 PM
York Public Library**

Call to Order, Determination of Presence of Quorum

Chairman Glen MacWilliams began the meeting at 7:00 by introducing the Planning Board and staff. A full quorum was present consisting of Glen MacWilliams, Vice Chairman Tom Manzi, Glenn Farrell, Barrie Munro, and alternate Lee Corbin. Richard Smith was absent. Lee Corbin voted in his place. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting was televised.

Public Input

Open to the public to address any issue other than the scheduled public hearings

No one came forward to speak.

Field Changes

Robert Satter, 65 Pine Hill Road, reported that his approved subdivision was substantially complete, and he wished for approval on several field changes. A ledge face had been uncovered along the left hand side of the entrance. He wanted to keep it because of its aesthetic appeal, because it decreases the amount of developed slope area, and because it enables retention of the number of trees in that area. Secondly, he asked to adjust the do not disturb line (lot line) in order to accommodate his own home without disturbing the setback limits represented in the original plan. Thirdly, he stated that the sewer easement across Lot 3 had been relocated westerly.

Motion Glenn Farrell moved to approve the three changes as discussed. Tom Manzi seconded the motion.

The board discussed and explained the risk involved in making field changes before being given Planning Board approval. Barrie Munro pointed out that proceeding at the applicant's own risk is not forbidden according to the ordinance.

Vote The motion carried, 5-0.

Mintues

Review and approve draft minutes of September 28th, October 12th, and October 26th.

The October 12, 2006 minutes were discussed. Barrie Munro, Glen MacWilliams, and Lee Corbin pointed out that the minutes were fraught with errors, and they explained

corrections, which they handed to the secretary. The secretary, Patience Horton, explained that her computer had “crashed” at the beginning of that meeting, and she had taken notes by hand and could not meet the accuracy requirements.

The October 26, 2006, and September 28, 2006, minutes were acceptable, as written.

Motion Barrie Munro moved to approve the three sets of minutes as discussed and amended. Tom Manzi seconded the motion, which passed 5-0 (October 12), 5-0 (October 26), and 4-0 (September 28—for which Glenn Farrell was not present).

Application Reviews

Town of York Public Works Department. 115 Chases Pond Road. Map & Lot: 0094-0032-A. Conceptual discussion about Site Plan submittal requirements for a minor expansion of the main building at the public works facility.

Town of York Public Works Director Bill Bray introduced engineer Steve Haight to discuss the two small additions to the Public Works building for which site plan feedback was sought. The improvements included creation of upstairs office space and enlarged maintenance area on the first floor. The additions meet the setbacks. Steve Haight explained that the addition is limited to the front part of the parcel facing Chases Pond Road. Barrie Munro was concerned about what the building will look like from the road and asked for digital photographs of the site. Tom Manzi asked if there would be an increase of public business on the property. Bill Bray answered no. He explained that the upstairs space would be used for storage of gear and a meeting room for employees. The addition of a fire escape will enable a second way out other than the stairs. Barrie Munro asked if funding would depend on some future referendum vote. Bill Bray said that \$47,000 was appropriated in last May’s election, however, the escalated price of steel since then has limiting the amount of building that can be done.

Dworkin/Clay Hill Farm Subdivision Amendment. Marsh Brook Lane. Map & Lot: 0099-0070. Subdivision amendment to consolidate 4 lots into 2 lots.

Glenn Farrell explained to the Chairman that as a builder, he had consulted with the applicant about a project for which he ultimately was not hired. Chairman Glen MacWilliams told to Glenn Farrell “not to worry about it,” and Glenn Farrell was not recused from the hearing.

The applicant stated that the proposed change from a four-lot subdivision to a two-lot subdivision would eliminate the need for the proposed common drive, as previously proposed. He added that the houses would be sprinkled, which had been an issue when the application was first made.

The Chair opened the Public Hearing, but no one came forward to speak.

Motion Glenn Farrell moved to approve the reduction of four lots to two, retaining the improvements to Clay Hill Road, and including the sprinklers in the building construction, as indicated by the Draft Findings of Fact, Plan Notes, and Impact Statement. Lee Corbin seconded the motion.

In discussion, Tom Manzi asked if, when the four lots are consolidated into two, they can be further subdivided. Barrie Munro said that if it reaches that point, it has to come back to the Planning Board.

Vote. The motion passed, 5-0.

Carr Development Corp & Mick Development Inc., York Shore Subdivision
Amendment. 10 & 12 York Shores Drive. Map & Lots: 0089-0045 & 0089-00056-Q. Application for a minor lot line change.

Applicant Joe Carr stated he had to address possible tree cutting violations on Lots 16 and 17, as he was seeking a boundary line change between Lots 16 and 17. The change of the lot line location will take the line from 52 to 54 feet from the wetland. To provide evidence that the cutting violations were done before the plan was approved, he showed the York Planning Board Minutes of December 11, 2003, which described abutter Richard Bach's comment to the Planning Board that the trees had recently been "butchered" for a new driveway, predating Joe Carr's plan approval in December of 2003. Steve Burns said that there had been some recent cutting, and he had seen some chipping on the property, in violation of Note 3 of the 2004 plan. Joe Carr answered that those were within the approved plan notes.

Motion Lee Corbin moved to accept the Lots 15 and 16 boundary line alteration as explained. As well, the applicant is to show the locations of the access easements. Barrie Seconded the motion. The motion passed 5-0.

Joe Carr explained that changes were on the mylars, but were not on the plan copies handed out to board members. He had the mylars with the necessary changes ready for the Board's signatures, which they signed at that time.

Sparhawk Subdivision—Minor Amendments. All lots on Harbor Side Drive. Map: 0070; Lots: 0005, 005A, 005B, 005C, 005D, 005E & 005F. Application for minor amendments to the approved subdivision.

Steve Burns explained that the applicant had asked to postpone the hearing. They had met on the site with the abutter and the abutter's engineer, but had not heard back about it. Glen MacWilliams suggested requesting a new application be made when Sparhawk comes before the Board again.

Fazio/Woodbridge Square. 38 Woodbridge Road. Map & Lot: 0050-0063-B.
Preliminary review of Major Site Plan Review application to construct a new office building.

Applicant Annette Fazio described her property with three buildings on it, two of which she wanted to raze. Construction Manager John Destefano showed a plan and indicated the buildings that are vacated. One two-story, new office building was planned to replace the buildings. He showed an elevation of the 14,700 square foot building. The sight distance will be improved by the 30-foot setback and the widened entry into the property. The storm water drainage, sewer, and water will remain the same.

Engineer Dabney Moar showed the location of catch basins on the plan and discussed the drainage pattern into the wetland. The lot is currently completely impervious, and the impervious-ness will be decreased by 7500 square feet with the new building. She went over the landscaping plans and showed where some new trees will be added to the buffer. Barrie Munro brought up the traffic issue. Many people will be turning into the property for Fazio's Pizza and thought the entrance was dangerous. Glen MacWilliams agreed. Tom Manzi suggested a one-way route through the property, which the engineer said would cause more problems.

The chairman opened the public hearing. **Cynthia Raymond** said that when the two buildings are taken out, the location would be a wonderful place for Town Hall, rather than a business. The facilities are there. It is close to town. Town Hall would not have to be moved to the top of the hill.

Carol Donnelly of the York Rivers Association was concerned about Barrel Mill Pond and the York River, both of which would get the runoff from this property. She said that the curbing between the parking lot and the vegetative buffer would add to the flow of the runoff, and that fact should be taken into consideration. The Chairman closed the Public Hearing.

Glen MacWilliams said that the curbs should be thought of in terms of low impact design. He asked about snow removal. Dabney Moar answered that 15% of the parking lot would be used for snow storage, after which, when full, the auxiliary pile would be trucked off the property. Glen MacWilliams asked Annette Fazio if the lot boundary issues had been clarified. She answered that an overlap of land deeded to her also had her abutter's name on the title. The Chair asked that it be resolved before it comes back to the board. Lighting was discussed. The lighting manufacturer is the designer, said Dabney Moar. Glen MacWilliams asked for certification of the design. The Shoreland setback was discussed, and its delineation was pointed out on a plan. Parking standards were discussed. Tom Manzi compared shared parking to shared bunks on a submarine. There are not enough bunks for everybody on a submarine. Barrie Munro said that parking lots have performance standards to mitigate impact on the wetland. Traffic impact will also have to be considered.

Glenn Farrell complimented the applicant team on designing a nice building. He did not understand where the 15% of spaces comes from for snow removal. Dabney Moar answered that there is less clientele in the winter months. Annette Fazio confirmed that there are plenty of empty spots in the winter. No more than two-thirds are ever used.

Motion Tom Manzi moved to accept the application as complete for purposes of review. Glenn Farrell seconded the motion, which passed, 5-0.

Motion Glenn Farrell Moved to approve the waiver request a high intensity soil survey. Barrie Munro seconded the motion, which passed, 5-0.

Steve Burns said that all the abutters who needed to be notified had been notified for this hearing. He reminded the board that this was a preliminary review giving the applicant and opportunity to move forward and finalize plans. Off-street loading was discussed. Dabney Moar explained the intention of having trucks able to park for about five minutes near the entrance to Fazio's during the day, when it is not open, allowing traffic to move around the truck at the same time. Barrie Munro said that traffic signs would be necessary so that cars can work their way through the parking area and out, because it is important to think of the specific needs to customers during this phase of the plan. Glenn Farrell suggest the applicant show a car and turning radius around the island to scale on the plan. The Town Planner explained the time frame (1 year from initial approval to final plan, and then 3 years to get the project started).

Highland Farm Phases 1 & 2, North Meadow Lane, and 250 Cider Hill Road. Map & Lot: 0090-0029A, 0090-0030 and Phase 1 roads. Amendments to Phase 1 roads, and continued consideration of preliminary review of a major subdivision.

Project Engineer Steve Haight discussed the vertical alignment and side slopes of the new road design and how the change will better fit the topography. He also showed a profile of the changes. He said that the road will become a private road, because in some places the grade is greater than 6%. He read a narrative of the proposed road changes. Glen MacWilliams said that the area of cut and fill proposed has changed from 150 feet of fill to 700 feet of fill. He asked if the drainage has been affected by this change and if the culvert sizes are the same from the original design package. Steve Haight answered that the water will go in the same location as before, but that there is less impact. He described the road as smooth with consistent transitions that will save between 20,000 and 30,000 cubic yards of cut. Barrie Munro asked if, as the road becomes steeper, it increases the velocity of the water draining off it. Portions of Route 91, near Highland Farm, were recently washed out and that portion of road was closed. Tom Manzi said that high runoff velocity took the road out. Steve Haight said the reduced amount of pavement and the 6" of rip rap along the road will help keep the runoff velocity low.

Motion Barrie Munro moved to grant the waiver of §9.5.1, Street Design Standards. Lee Corbin seconded the motion, which passed, 5-0.

Applicant Attorney Jim Katsiaticas then asked that board members who are absent from any Highland Farm hearing follow Maine Municipal Association guidelines for keeping abreast with application by reviewing the video of the hearing. Steve Haight summarized a few issues he had talked about with Steve Burns including road standards, the waiver for trees within 50 feet of the right-of-way, and secondary access for the property.

Chairman Glen MacWilliams opened the public hearing.

Mike Rogers of the Kittery Water District asked several questions about Phase 2. He wanted to know how the different distances of 250 and 500 feet are used as setbacks. Steve Burns explained the 250 is along the high water mark on Bolter Pond. On any land within the watershed district, homeowners can't "do anything." They can't even snap a twig, he said. Mike Rogers asked if with Lots 14 through 24, the septic systems can be in the front of the lot, away from the water, to give more protection to the water supply. Steve Burns answered that some can, but since some would move closer to the York River water system, the decision should be made lot-by-lot. Mike Rogers was concerned that lots might be advertised as waterfront property, however, there can be no boating, fishing, skating, or body contact of any kind allowed near the water. There is the potential for having that happen, because it is difficult to police. He wants to minimize the impact from the residents. Steve Burns called that the "\$64 question." When we say a person can't even snap a twig, how can you enforce that? he asked.

Sharon England suggested that since the land is a fragile watershed, would this not be a good opportunity for use of eminent domain for the good of the public?

Helen Weinbaum read a poetic treatise about plentiful drinking water being the heart and soul of our town, with a water supply that goes into the future. She spoke about people in kayaks, rubber boards and on all-terrain toys, pollution, and weed killer being regulated in covenants and deed restrictions that will soon enough be long gone. There will be no one to monitor the activities. This is the water the families of Kittery drink.

Joe Michniewicz showed where he lives in context to Highland Farm. He was concerned about runoff. When the new Highland Farm road at the top of the ridge has runoff, it will also come from six lots. The soil is shallow there, and more water will be pushed toward his and his neighbors' homes. Blasting will create fissures in the rock, causing more pathways for more water. He warned about the septic system locations at the front of the lots, toward the river. As well as that, the second access ordinance is triggered by there being 15 lots. A waiver is being sought for the second access, even though there are 45 homes—three times the amount triggering the second access.

Charlie Steedman said had spoken against this development in Planning Board public hearings twice before. He asked what stops the owners from doing what they want on their properties. This kind of development is out of keeping with the Cider Hill Road community. Furthermore, there is nothing comparable to the headwaters of the York River. The Maine Coast Heritage Trust considers it a top priority for preservation. If

Highland Farm is developed, it will never be un-developed. It is for all time. In sixty years, if the ordinance changes and these owners are allowed to subdivide, there will be nothing to stop that when we are long gone and others are in charge.

Derrick Ahl said that the endangered species in that area cannot be brought back, once they are gone. The applicant's wildlife consultant, Jeff Cantara had said that this March, April, and May is the time to study the vernal pools on the property. Also the cairn on the highest point of land is not on record, according to Steve Haight. Just because it is not recorded does not make it non-historic or non-valuable.

Margot Simmons said she grew up in that area, as her grandmother is an abutter to the Highland Farms property. Margot Simmons knows the woods there well, as she grew up there through all the seasons for many years. The ground pools, the salamanders, all the wildlife—she does not believe they have been documented enough.

Ludwig Keenan said that when another 30 or so acres are cleared off, the runoff will get faster off those acres. He recommended that the board walk through the watershed when the water comes off during the current condition. He asked if the Planning Board is in the position to require studies of the impact throughout the properties of his home and those of Mrs. Simmons, Mr. Michniewicz, as well as the impact on Rumsey Road.

Joey Donnelly said that as a result of the recent referendum, the townspeople of York voted to accept the Mount Agamenticus to the Sea Conservation Initiative to the Comprehensive Plan. The Highland Farm land is critical to Mount Agamenticus to the Sea. He asked that the board consider this fact during its deliberations. The chairman closed the Public Hearing.

During Board discussion, Glen MacWilliams said that the drainage situation is an unknown, because the drainage study has not been done. Therefore, the board cannot accept the location and condition of the road without knowing about the drainage and its impact on the environment. He asked the board to consider setting aside the waiver request for the road. Glenn Farrell argued that the applicant is only asking for a waiver on the road grade and that by granting the waiver request, the road is not being approved. Steve Haight added that if the standards can be relaxed, the applicant can have the flexibility to design the road with less impact.

Motion Glenn Farrell moved to approve the waiver. Barrie Munro seconded the motion.

Jim Katsiaficas said that the intention of waiving Ordinance 9.5.1 allows the board to deal with the project's big picture. Steve Burns asked if the waiver referred only to the three bulleted items in the applicant's waiver request: up to 6% grade; 24' wide paved road, and 20' wide cul-de-sac roads. Steve Haight answered, yes. Glen MacWilliams agreed that if only the three bulleted are waived, the waiver is not so potentially detrimental. The recording secretary was instructed to revise the motion.

Motion (revised) Glenn Farrell moved to approve the waiver to the limits of the three bulleted items from the Haight Engineering letter of October 27, 2006:

- Centerline road grades greater than 6% to allow the proposed road alignments to better meet the existing grades on site,
- Provide for 24' wide paved main road with 1' gravel shoulders and 2' deep ditches, and 2:1 back slopes (access road from Phase 1),
- Provide for 20' wide paved road for cul-de-sacs with 1' road shoulders and 2:1 back slopes. It is also the project proponent's intent to utilize steeper slopes (if appropriate in areas of cuts in bedrock).

. Barrie Munro seconded the motion.

The motion passed, 4-1, with Tom Manzi opposed to the motion.

Chairman Glen MacWilliams moved the discussion to the vernal pool environmental study expected to take place in the spring. Jim Katsiaticas said that regulations for the pools will not be established until after 2007. No Town or state Regulations currently controls their management.

Referring to a large satellite-generated photo, Jeff Cantara of Gove Environmental Services, Exeter, New Hampshire, explained the wildlife corridor around the pond. He said that though there has not yet been an intensive wildlife survey, he can assess certain areas, and proceeded to do so. He showed the likely corridor. He showed were a recommended culvert-critter-crossing under a proposed road at Highland Farms might be. He said that 73% of the land, or 83 acres, would be undisturbed, including a matrix of vernal pools as places for threatened species (Spotted, Blanding's, and Wood Turtles). His spending four days of field time in the spring can give a good overview of the wildlife conditions on the property.

The secondary access was also discussed. Steve Burns did not recommend approving an access from Kingsbury Roads, because it would lead to more development up there. Glenn Farrell suggested setting it aside as a pedestrian access that can also be used by fire trucks. He suggested the applicant acquire a letter from the fire chief detailing specifications for the road that will suit the fire department. He recommended tabling the issue until there is such a letter. Steve Haight said that a 20 foot pedestrian easement would cause no problem to the design.

Regarding drainage, Barrie Munro said that the board wants to be presented with specific information about drainage onto lots on Rumsey Road. Glenn Farrell added that the board does not want a printout saying that the drainage will be the same after as it was before, as it has seen many times before.

Steve Burns suggested holding a one-item agenda hearing for the Highland Farm application to be continued, as the impending holiday season has cut hearing availability short. He said he would come up with a place and time and notify everybody.

Lombardi/Cape Neddick House. 1300 U.S. Route One. Map & Lot: 0015-0017.
Application for a Route One Use Permit for re-development of this commercial property.

Jennifer Marshall introduced co-applicant Dee Dee Lombardi, and then described the proposed restoration of the Cape Neddick House, a 19th century Victorian farmhouse cum village retail/restaurant show and market place for artisans and merchants. There will also be offices.

JoAnn Fryer described the construction phases. Phase 2 will carry on after Phase 1 is finished and open for business. She described the non-conformity of the prior salvage business that took place there. The proposed non-conformity would be encompassed by the large square footage being under one management. The new non-conformity would be less non-conforming, though there would be an increase in traffic.

The Public Hearing was opened. No one came forward to speak. The Chair read a letter from Pie in the Sky's **John & Nancy Stern** who said that they are in full support of the Cape Neddick House.

Motion Glenn Farrell moved to accept the plan for purposes of review. Tom Manzi seconded the motion, which passed, 5-0.

Steve Burns said that Waiver of §6.1.8.3 should be disregarded because it does not apply.

Landscape architect Robby Woodburn showed a plan of the property, pointing out eight trees in the front bufferyard. She said that the ordinance calls for 10 trees, but she does not have room to add more. She asked for a waiver of the requirement. She discussed the low-intensity lighting, and Glen MacWilliams asked that the lighting plan be certified.

Motion Glenn Farrell moved to approve the waivers §6.3.6.1, front bufferyard lighting, §6.3.10.4, front bufferyard planting, § 6.3.13, elevation plan scale, and § 18.1.4.2.I, high intensity soil survey. Barrie Munro seconded the motion, which passed, 5-0.

Motion Glenn Farrell moved that the board finds the new use less non-conforming than the existing use. Barrie Munro seconded the motion, which passed, 5-0.

The applicant was asked if minor plan clean up could be made. The recommended clean-up is described in Steve Burns's application review. The applicant replied that the changes to the application will be made. Steve Burns said that for the first time ever, the performance guarantee came to his office before the application. Barrie Munro suggested that when the applicant comes back to the Planning Board with the completed mylar, approval will be given.

Motion Glenn Farrell moved that approval of the plan will be subject to Steve Burns's acknowledgement that all the items discussed and listed this evening are corrected and all the notes are taken care of. Lee Corbin seconded the motion, which passed, 5-0.

Other Business/Adjourn

Steve Burns had handed out a letter dated October 3, 2006, from Richard DeSoto of Six Bragdon Commons Association concerning flooding that originates from a nearby swampy area that is not maintained. Steve Burns said that he has spoken to different people about the flooding, and everybody has a different version of what is wrong. Glen MacWilliams said that the Planning Board can step back from the problem, because it is not a Planning Board issue. The board has no jurisdiction over the problem. Steve Burns agreed and said he would pass to matter back to Richard DeSoto.

Tom Manzi passed out a memo on open space for future discussion, but Glen MacWilliams said the matter should be postponed to another meeting. The meeting adjourned at 11:20.