

York Planning Board
Thursday, January 3, 2013, 7:00 P.M.
York Senior Center

Call to Order, Determination of Presence of Quorum

Chairman Todd Frederick presided. A quorum was determined with five people voting: Chairman Todd Frederick, Vice Chairman Dave Woods, Board Secretary Lew Stowe, Torbert Macdonald, Jr., and Dave Glazebrook. Alternates Al Cotton, Jr. and Brud Weger were present, but not voting. Christine Grimando, the Town Planner, represented staff. Code Enforcement Officer Ben McDougal participated in discussions. The meeting was not televised. Patience Horton took Minutes.

Public Forum

Open to the public to address issue other than topics scheduled public hearings.

No one came forward to speak.

Minutes

Meetings of December 13, 2012 were reviewed and changes were requested.

Motion: Torbert Macdonald moved we approve the planning board minutes for December 13, 2012 as corrected. Dave Woods seconded. The motion passed, 5-0.

Field Changes

Century Hill Lot Line Adjustment

Project engineer Bill Anderson discussed the change to the lot line, originally approved in 1988. The lot is not being split. There are no wetlands or steep slopes. The net buildable acreage is “good.” Originally it was a subdivision, but there are no conditions that the property line cannot be changed. The results are legally conforming lots.

Motion: Torbert Macdonald said, “Mr. Chairman, I move that we approved the revised plan of lot at Sentry Hill Road, York Maine, between Dave Marshall and Mark Green.” Dave Woods seconded the motion. The motion passed, 5-0.

Accessory Dwelling Unit Ordinance

Town Planner Christine Grimando said there are difficult issues caused by “fuzziness” in the ADU ordinance language. Key issues of the ordinance have to be corrected. In the current ordinance, the maximum size for ADUs was bigger than originally written for. The resulting accessory buildings looked like duplexes or two single-family dwellings on one lot. CEO Ben MacDougal showed the board a photograph as an example. It has 900 square feet of living space above the workshop, garage, and accessory space, all new.

Torbert Macdonald said we should go back to 50% in size of the principal building, or 750 square feet as the max, whichever is less. Anything deemed an accessory building can only be attached to a building that has been there at least two years. These things will take care of the worst of the excesses, he said. East of the highway, the idea is that there should be no increase in the footprint of the existing structure. Todd Frederick said that east of the highway, we are encouraging people to put the unit inside the building.

Torbert referred to Steve Burns's summary. In Watershed Protection and the Shoreland Overlay, the installation of an ADU cannot result in net increase in either impervious service area or building footprint. There shall be no increase in septic systems. Those standards east of the highway will take care of the footprint issue and the impervious surface issue.

CEO Ben McDougal had researched these ordinances in other towns. Their language includes, "the detached accessory structure must be designed and constructed in the style of a garage, barn, storage building, carriage house, or similar structure customarily located on the same lot of the single-family residence." Christine Grimando commented that we have no language indicating it has to look like an accessory structure. Ben said right now we only read, ". . . clearly secondary to a single family dwelling."

Other language he found includes, "No farther than 100 feet from the principle structure," and "Accessory units shall retain and respect the existing streetscape, character of the neighborhood, and preserve the single-family appearance, architectural style, and character of the original dwelling and property." Ben asked how it would help to have this language (along with the 50% or 750 square feet, the siding of the structure, and the curb cut) in the ordinance. This gives the CEO the latitude to say this does not fit with the single-family character of the neighborhood.

Lew Stowe said that density controls of the lot, age of home, utility service requirements (CMP usually requires two separate meters), home occupations (one home occupation per lot), and annual water test are all factors of the ADU. What about how the rental of the unit is being allowed? Dave Woods said they would be least for no less than 1 year. He said there is no way of controlling rentals. Ben said the code office has been able to enforce on illegal rental properties. You cannot rent a single-family dwelling as a two-family dwelling. If you have five non-related people, you are not considered a family.

Dave Woods said he goes with the 150-foot, verses the 100-foot curb cut; the 750 square foot, or 50%, of living space; and for the style to match the surrounding neighborhood.

Torbert said adding standards for non-conforming lots to those for the Watershed Protection in the Shoreland Overlay would result in no net increase of impervious surface, and no building footprint increase.

After discussion, the board decided to make these initial ordinance amendments for the May ballot: 750 square feet, or 50%, of living space; one curb cut; a two-year delay on

accessory structures not within the original structure's footprint; and 150 feet of distance from the principle structure.

Ben McDougal said this is this is a great move for "stopping the bleeding," and the board can go for a massive overhaul later. He recommended including language about single-family appearance, the physical character of unit, and use samples of language he had given earlier. Christine said there is just enough time to post it for May.

Right of Way Standards

Town Planner Christine Grimando called the current standards "trouble" for non-subdivision development. CEO Ben McDougal said there are private roads all over town, Beacon Street Ext., Paul Street, Trafton Street, Rogers Road, Horn Road, Linskey Road, Marshbrook Lane (a long one being developed), etc. They are all substandard. None are 50 feet wide. The fire department says they are not safe.

He continued. When someone comes in for a permit, we deal with Section 5.5.2. It says that if the road does not meet the following standards, they have to construct a road with minimum 12 feet in width, with a road base of 12" of clean sand and gravel that has adequate culverts and drainage for storm water. The person is responsible to construct the road from the driveway entrance of the lot, or the length of 600 feet, whichever is less. It is difficult to enforce. Literally, it requires the first 600 feet to be improved.

Much of the development in town is coming off of dirt roads. Where is the point of origin? Is it where they come in, or all the way to the Town road? If I'm building a subdivision off of Trafton Street, where is the point of origin? Road agreements don't bring the road up to the standard. Brud Weger commented that the road agreement could link you to the public road. Ben said that for that link then you're talking about \$1M. That would shut down a project. You have to have adequate culverts and drainage. The town takes the position of safety, police and fire.

Dave Glazebrook said he had to improve the private road when he bought his house. He had to widen it. It cost thousands. Torbert said the mandating legal issues the Town has for drainage is the key. Also, the last person should not have to pay for everything. Everybody along the road should chip in. The requirements under MS4 have to be understood.

Torbert said that Section 5.5.1 deals with roads that are constructed to meet new lots. Section 5.5.2 deals with existing lots. 5.5.2 creates an impossible burden, and should be eliminated. Ben said that way you exempt existing lots. If you get rid of 5.5.2, you are saying existing lots to build a house have no standard. You would only have a standard when new lots are created. Torbert argued that 5.5.2 is probably unconstitutional. It creates an undue burden on a newcomer to a neighborhood. They are required to do work the neighbor hasn't done. Ben McDougal said that would be back to the point of origin, which is defined as the intersection with the town-maintained road. Torbert said the Comp Plan is trying to get rid of extended roads into the wilderness. Getting rid of 5.5.2 does that.

Torbert also asked if we could allow any new development, even private, that doesn't meet public safety standards. What have other towns done? We need to be able to control this as a public policy issue. Christine said this is a sensitive issue. There are rights involved. It is going to be a long project.

Ben said that that getting rid of 5.5.2 is a very good start. What that would do is take away the core of the problem, and then it would slow things down so you can have a sensible way to regulate the development.

Dave Woods asked if you could exempt a family subdivision-type philosophy. A family subdivision is an exemption of state subdivision laws. Torbert said family subdivisions have to meet all the standards of the regular subdivision, but they don't go before us for our review.

Ben said that if there is an exemption for a family subdivision at the end of Vineyard Lane, and you have 2 family landowners, and each does a 10-lot family subdivision. They can only do one unit every five years, but in this case, it is one every 2-½ years back and forth. In that case, we haven't solved the problem. There is an impassable road into all the new development.

He said that the fire chief deems Vineyard Lane unsafe, so no more building permits can be issued on it. All the people at the beginning of Vineyard Lane are going to love that. That is a disincentive for them to improve their road. Let's get the fire chief to deem our road unsafe, they would say. And they don't have to pitch in and make a safe road.

Torbert said, there are two positive things eliminating 5.5.2 does. It takes off the burden on the existing lot owners for building the road up to standard that no one has had to do before them. It also eliminates the possibility of a subdivision being put in at the end of that road without having to bring the entire road out to standard. We are not certain about how it affects family subdivisions.

May 2013 Ordinance Amendments

Christine Grimando said there are two amendments with a public hearing later this month, January. The Selectmen had requested that ADUs would go forward. The Selectmen had requested that the cluster language be tweaked, getting away from the ownership of the conservation easement in cluster.

Torbert said you don't come in the 11th hour and recalculate what the Comp Plan deems the responsibilities are. Christine said this change is good, whether you do it in a rush, or not. It does not have to be pushed through this evening.

November 2013 Ordinance and Comp Plan Amendments

List of amendments to be drafted for November 2013

Christine listed November 2013 Amendments

Comp Plan Amendments

Sea Level Rise (another draft coming)

KACTS (for the sake of reference)

MS4

Village (redefine what the Village is)

Ordinance Amendments (Cluster and Green are the big ones for Nov.)

Right of way standards (including private, maybe paper, roads)

Refine industrial use definitions and standards

On-site commercial sign requirement

Farm enterprise overlay (another property to be added)

Green Enterprise

Cluster (How do you know that one is better than conventional?)

Discussion

Torbert said that Maine is not a home-rule state for land use. State standards rule everything. We can be stricter than them, but not less. They mandate that we have a rural area, which we strive to protect, and a density-growth area. The ADU is the top of the list for creating ways to create the density.

Christine said Green Recreation and Cluster constitute a lot of work for November. If we have sub-groups, they should be on those two, so they don't slip through again. Brud said he is interested in site analysis for cluster subdivision and for some of the design work for ADUs.

Todd Frederick has been asked if the Planning Board will be involved in developing overhead lighting on Route 1 and in parking lots. We have the say in development, but not authority on street lighting. A change can save money and remove light pollution.

Motion: Torbert Macdonald authorized the Chair to send a letter to the Board of Selectmen requesting their interest in the subject. Dave Woods seconded the motion.

Vote: The motion passed, 5-0,

New Business

Karen Young, the new MtA2C coordinator can come for the January Workshop. Mike Mullman new Chair of the York Conservation Commission.

Adjourn

10:09