

York Planning Board
Thursday, July 9, 2009, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Planning Board Chairman Tom Manzi introduced board members and staff with a fond comment about each. Present were: Chairman Tom Manzi, Vice Chairman Lew Stowe, Planning Board members Barrie Munro, Dave Woods, and Todd Frederick, and alternate Torbert Macdonald. This was the first meeting after Glen MacWilliams left the board, and it was the first meeting for returning Torbert Macdonald. Town Planner Christine Grimando represented planning staff. Patience Horton recorded these minutes. This application hearing lasted over five hours.

Public Input

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

No one came forward to speak.

Field Changes

American Legion Picnic Tables

Steve LaPointe of the American Legion asked for a change to a site plan approved in 2007 involving placement of six picnic tables with umbrellas in a fenced-in back yard behind the hall where patrons--members and guests only--could enjoy beverages. The State Liquor Inspector said approval had to come through the Town. Dave Woods commented that in York Beach, a fenced area, as proposed, couldn't be accessed without going through the restaurant. Steve LaPointe answered there is a delivery gate, and only he has a key. Christine Grimando confirmed the gate is controlled.

The indoor lounge seats 175 people. Lew Stowe said that with outdoor added seating, there would have to be more parking. Barrie Munro said that if 15 seats are added, there has to be five more places. Christine Grimando said there are 125 parking spaces. It would be best to see what is covered by the original plan. At the next meeting, Steve LaPointe can report whether the numbers add up for the current proposal.

Motion: Barrie Munro moved that the Planning Board requests the applicant to redo the basics for the parking requirement and add one parking place for every three seats that are planned for the outdoor table area. Dave Woods seconded the motion.

In discussion, Dave Woods asked about the length of the tables, some able to hold more patrons than others. Steve LaPointe said the information would be submitted to Christine Grimando. It is a seasonal situation. The parking needs will fluctuate.

Vote: The motion to request a parking/seating space ratio passed, 5-0.

Minutes

Review and approval of minutes.

The June 11, 2009 minutes were reviewed. Lew Stowe requested several minor changes and handed copies to the recorder.

Motion: Lew Stowe moved to accept the minutes with corrections. Todd Frederick seconded the motion, which passed, 5-0.

Application Reviews and Public Hearings

York High School. 1 Robert Stevens Drive. Map & Lot 0028-0005. Review of minor Site Plan application for a Music Wing Addition.

Lew Stowe chaired this hearing, because he had chaired the High School's prior hearing. Assistant Superintendent Jim Amoroso introduced the building committee. Architect Alan Kuniholm, of PDT Architects, Portland, re-presented an overview given at the June 11, York Planning Board meeting. A 9,600 square foot music wing is proposed for the York High School. The independent band room and the coral room will have adjoining offices, instrument storage rooms, and practice rooms. A corridor will join the music rooms to the rest of the building. There is a possibility that extra bathrooms may be included in the plan, he said.

Engineer Eric Dube, Casco Bay Engineering, Portland, described the wing's convenient link into the existing sewer system. Propane will tie into the existing line. This is an opportunity to bury the tank. Some outdoor lights will continue to be utilized, and some lights will be replaced. The catch basin arrangement for stormwater control is a stormwater berm containment system. The ability to treat 98,000 square feet of impervious surface is 30,000 feet over what is necessitated by the configuration. The DEP permit has been approved and will be issued within a week, Eric Dube said. Comments from the Sewer District and the peer review from Oak Engineers were requested by the Planning Board at the last meeting and are prepared. Information from the wetlands report has been incorporated into the drawing.

The boundary survey waiver request had been turned down by the Planning Board on June 11. Eric Dube has worked with Bill Anderson, Anderson Livingston Engineers, York, on obtaining a survey. Eric Dube hoped the delivery of the survey will not delay the project, because the applicant is seeking preliminary and final approvals at this current meeting. There had been safety concerns expressed by the planning board over the fence around the detention berm/pond. Eric Dube stressed he did not want to fence in the area, which is two feet deep. The pipe at the bottom of the detention pond allows the water to slowly drain in 24-to-48 hours.

Architect Alan Kuniholm said there was concern from the Planning Board that the introduction of noise might disturb abutters. The sounds from the new music wing will have a 30-35 decibel level, compared to 20-25 decibels from an every-day school setting, but the

closest house is 200+ feet away, so noise should not be an issue. Concrete and masonry separates the spaces, so chorus and band can practice at the same time in opposing rooms.

A resubmission had been put together for the Town Planner. It includes letters from the Water and Sewer Districts, the Oak Engineer Peer Review, Surface Water and Wetland Survey, as well as a technical review from DEP.

Lew Stowe opened the **Public Hearing**. **Wayne Martin**, Chairman of the Building Committee, said the voters approved the High School Music Wing in the May 2008 referendum. Construction bids and a cut-down on heating equipment costs have created a \$40,000 surplus, allowing bathrooms and a front desk to become part of the music wing contingency. The building committee is looking for preliminary and final approval so the foundation work can be finished before school starts. Foundation work includes removal of stumps buried at the site years ago. If the work starts later, that work will be pushed into the very cold weather. No one else came forward to speak. Vice Chairman Lew Stowe closed the **Public Hearing**.

Eric Dube said results from a water test taken two weeks ago show more water is available than needed by the sprinklers, bathrooms, and added water fountain. An additional tap or meter will not be necessary. The water comes from the existing building. Tom Manzi asked about the sprinkling. The architect described how heat sensitive devices deliver "rain." He added that putting off the music wing for a year does not make sense.

Barrie Munro said with the bathrooms added to the plan, the water and sewer requirements will change, and the DEP approval might be affected, as well. The reference to the bathrooms would be stricken because the applicant hasn't provided both contingencies. The two additional toilets may create impact fees. Christine Grimando said revised letters might be required from Water and Sewer.

Jim Amoroso said of the \$1.9 million, \$40,000 is left in the construction budget, allowing the bathrooms and the boundary survey to be added to the plan. Barrie Munro suggested getting the references to the bathrooms, now, and putting the bathrooms in, later. Alternate specs for the installation of the bathrooms, including tapping into sewer line, have gone to DEP. Additional costs consist of tap fees required by the Town. He understood if the toilets were accepted, there would have to be a subsequent review, tap fees, and site conference.

Christine Grimando said the shoreland/wetland survey is complete. The survey has a verbal description with six different wetland areas on the site. Eric Dube said he must review the shape of one pond to make sure the building meets the setback. New wetland delineation did not match a prior delineation, so it was finished accurately with GPS.

Dave Woods said that subsurface [with stumps] soils could destroy a construction budget. Eric Dube said significant soils testing has been done. The soil removal is "covered."

Torbert Macdonald said that according to July 9 StanTech report, Wetland 6 is subject to the wetlands greater-than-four-acres-in-size setback rule. He asked if the required consultation with the York Shoreland Officer had taken place. Christine Grimando said it had not taken place. Dave Woods said the occupancy permit should be conditional to the survey submission. Eric Dube said the price of \$9,000 or \$10,000 for the survey reflects Bill Anderson's local knowledge and familiarity with the site. Lew Stowe said the survey could be put off for a year or two. Jim Amoroso said the timing does not make a difference and would rather do it as soon as possible. Torbert Macdonald said the boundary surveys are necessary but not germane to this project. Jim Amoroso said his group is trying to fit the survey into the current budget. Barrie Munro said it could be waived on the basis that it is an amendment to a previously approved plan.

Lew Stowe put an outline on an easel and spent about ten minutes presenting a summary of the Site Plan and Subdivision Regulations Application procedure. He reviewed the Sketch Plan and Preliminary Plan, including the review of Article 6.3, Sections 1-34. He also discussed the Final Plan, organized by Articles 6.3 and 6.4.

Motion: Dave Woods moved to require the boundary survey, condition subsequent, during preliminary review, to be delivered to the Planning Board prior to Final Plan Approval. Tom Manzi seconded the motion, which passed, 5-0.

Christine Grimando suggested the board make a friendly amendment to allow the applicant to submit a stamped survey at the next planning board meeting and waive the seven-day prior authority.

Motion: Dave Woods moved to reconsider the vote. He moved to require submission of the survey during the preliminary and completed in a timely fashion. Tom Manzi seconded the motion, which passed, 5-0.

Lew Stowe asked about the grave on the High School property. Jim Amoroso said it can be point out and is not an issue. Christine Grimando said the impact statement has been submitted. The grading and landscape design plans have been submitted. Torbert Macdonald asked about the wetland's capacity to receive an increased runoff. Engineer Eric Dube said the flow is being decreased. Torbert Macdonald said the water connects directly to the Little River. Eric Dube said that water is being reduced. The system has the capacity to process runoff totaling 98,000 square feet from the parking area, the new building, plus the future auditorium. That capacity is more than necessary. Tom Manzi said one deed is missing from the many deeds that combine to form the total acreage. That is, the combined acreage from the deeds does not add up to the physical acreage. Alan Kuniholm said revised water and sewer department letters are being submitted to include the added bathrooms.

Motion: Barrie Munro moved to waive 6.3.33, requiring a traffic study for properties with 400 or more vehicle trips per day. Todd Frederick seconded the motion, which passed, 5-0.

Barrie Munro expressed to the applicants the board expects completeness at their next presentation.

Motion: Barrie Munro moved to approve the Preliminary Plan. Tom Manzi seconded the motion, which passed, 5-0.

The group discussed the final plan. Barrie Munro said that prior to granting the final approval, the planning board has the right to make changes on what has been approved, if there is a reason. He said the board couldn't make a determination on the final plan without the Findings. There are things to be "tidied up" and reflected in the Mylar. Christine Grimando said it would be helpful to have a revised final plan set that can reflect in the Mylars. Barrie Munro said the construction couldn't begin without the Mylar and building permit. David Woods said the applicant might be given a false impression that the board members will unconditionally sign the Mylars when they are brought in. One change makes the Mylar un-signable. The hearing ended.

D. Gross Single Family Dwelling: 213 Beech Ridge Road. Map & Lot 0085-0033.
Application for a Special Use Permit for the Resource Protection District

Christine Grimando prefaced this application. In November 2008, there were major shoreland zoning changes, causing this application for a single family home, in resource protection, to fall under planning board review. In resource protection and on this plan, there is no construction proposed in the flood zone, and no impact can incur during the course of construction. This applicant was partially through the application before the November, 2008, changes. The road was approved previously. Drainage work was done before the changes. Clearing had occurred in September 2006.

Dave Gross, 180 Birch Hill Road, spoke for his application. He showed a glossy, colored aerial photo of the 22-½ acre parcel that he has owned for 33 years, on the south side of the York River. He is the fifth generation to own land along that river basin. There are issues around the easement that enters his property and also around the expired permit for his road. He had hoped to have a two-family home.

He received a memo from Christine Grimando with instruction not to clear vegetation, but believes trees at the riverbank should be cleared. He said he has never seen erosion in the York River from not cutting trees. The trees are so heavy, they push down into the channel. They go over from their own weight, and the soil goes with them. Christine Grimando said there are conditions, on a case-by-case basis, where trees can be cut. Dave Gross said he has met the requirements of the application. He finds 18.2.7 troublesome. A CEO must approve the septic system, and it has to be inspected every year. He wants a stipulation that he will be informed when the inspector is going to show up. He plans for a specialized system that pumps clear water. The septic has been moved far away from the house, because it did not meet the perk test.

Chairman Tom Manzi opened the **Public Hearing**. **David Tibbitts of York Conservation Commission** said the natural resources in York are precious and dwindling. Projects

like these put pressure on resources. There are endangered turtles in a pond near this property. There are Landings Turtles and possibly New England Cottontails. He recommended a site visit, which he intended to join.

Michelle Dionne of the Wells Reserve said the fish communities and habitat of the highly valued York River watershed have been documented. Addressing the shoreline erosion, she said the weight of trees on the shoreline is not part of the process that plagues the River. One side is eroding, with or without trees. The landscape can be developed in an eco-friendly way. She left papers about buffers with the Town Planner to hand out.

Dianna Dennett is an abutter to Dave Gross. She briefly described the right of way that enables the top of his driveway to cross her property and run along her boundary. She has a pond. She said she has an area where York Sewer dumped sludge for about six months in 2004. She has a cranberry bog on her property built by the Army Corps of Engineers. Snowshoe Rabbits, Cottontail, Spotted Turtles, and Bobolinks inhabit that area. She said the conservation commission has never looked at or documented this wildlife area. Dianne Dennett described how the sludge field drains about 1700 feet from McIntyre Hill. She brought copy of the contractor's permit and fees for anyone to review. Christine Grimando said it is not a current issue, and it is not involved with the current application.

Helen Weinbaum, of York, said her testimony is not intended to influence deliberation. About 15 years ago, she walked for the first time from the top of Mount Agamenticus to the York River through unfragmented forests areas that had been protected for 100s of years. She also went on a boat trip on the York River and went to Rogers Brook at the top and saw upland boundaries of the York River as unfragmented as the Mount A lands. She learned about marine life and the salt marshes, and of wonderful families who have for centuries kept their land intact. For the past 15-18 years of her life, she has been working with many others to raise money to reach "win-win" outcomes for the owners of these extraordinary precious river and mountain lands. There are win-win solutions for landowners' legitimate needs and conservation and community goals and dreams. It is win-win for the owners who make this kind of effort for the upper reaches of the York River joining to the extraordinary Mount A lands.

Dave Gross said the site evaluator and soil scientist had reported on the setbacks and location of the septic. Just as he had earlier referred to the pain of the tax burden, he shook his head over the cost of these reports.

Christine Grimando said the application is incomplete. Though clearing is not currently allowed, if the application goes forward and can meet the requirement of the ordinance, the 8.3.3 will allow some clearing. Only a single-family residence is allowed on the land. The town does not want a new sub-development there. Part of the lot is in the floodplain. The proposed construction is not in the floodplain, and there will have to be a note in the plan to that effect. Per 18.2.7, the lot has no existing conforming or non-conforming structures. Per 18.2.7.b, the whole lot is in the Resource Projection District. The applicant knows the location of the septic system. Removal of vegetation and location of the

house are Planning Board items. The Board of Appeals cannot waive the terms of the special use permit. Christine Grimando said the habitat piece is not a required part of the review.

Motion: Todd Frederick moved that the application is complete for purposes of review. Dave Woods seconded the motion, which passed, 5-0.

Motion: Lew Stowe moved to do a site walk within 30 days. Barrie Munro seconded the motion, which passed, 5-0.

Dave Gross stated he holds no liability or responsibility for anyone who walks on his property. That site walk is planned for Friday, July 17, at 9:00 A.M, determined the Town Planner.

Yorke Fields: 590 U.S. Route 1. Map & Lot 0042-0008. Preliminary Review of a Major site Plan

Project Engineer Jeff Clifford said at the most recent planning board meeting in May, changing the driveway entrance to limit left turns only onto the property was proposed, required an additional board review and an additional permit from MDOT. Three waivers were also pending. The applicant was seeking Preliminary Approval at this hearing.

The 22-foot roadway, located 700 feet south of the intersection of Route 1 and Spur Road, might be subject to DOT's plan to create lanes and widen Route 1, but it is uncertain if and when DOT will go forward with the plan. In the event the Route 1 work does not commence in November/December, as anticipated, the Yorke Fields team proposes to put an island, designed by Gorrill Palmer Engineers, in the middle of the driveway entrance. It would guide cars in and out. That island would be about 1/8" high. A fire truck would be able to drive up onto and across the island. The Department of Transportation also wants the entire width of the mouth of the driveway to be plow-able. It wants breakaway signs there. The wetland impact will be increased, but not by very much, continued Jeff Clifford. All cars entering and exiting the property will be southbound, making the driveway access right-turn-in, and the exit, right-turn-out.

Dean Lessard, Town of York Director of Public Works, said he has no concerns about the restricted traffic pattern. The best situation is to have full access to the facility. The applicant would enter into an agreement with Maine DOT, creating an escrow account that would be contributed at the time to widen the pavement. When the major work on Route 1 comes, the applicant would revert to the subsequent plan, said Barrie Munro. He also wanted to make sure the money is escrowed with DOT before the Planning Board grants a permit.

Attorney Greg Orso, for the applicant, said there are complications in making an escrow account when approving one plan, plus a subsequent plan, as proposed. It is impossible to state what is being required by DOT. If both plans are approved, they are under the current ordinance, but might not be 10 years down the road. Barrie Munro said approval

couldn't be given any other way. Greg Orso said the safety officers in York feel this is an appropriate development. This is a property that meets the code but has an ingress and egress problem.

The original plan had nothing to do with DOT, said Bill Bray. Bill Bray said the new plan for DOT was reviewed with Town staff and DOT's top traffic engineer. DOT or Town staff had not permitted the original plan submitted. This is the third plan. Greg Orso said he understood that Plan 3 [with the island], has been OK'd by Town staff. Town Planner Christine Grimando said the question is how to link the plans together, if and when needed.

Todd Frederick asked how northbound traffic would turn around to come south to go into the property. Bill Bray said that 13 vehicles would turn into the Yorke Fields property per hour. Some of those will want to make a left turn into that site. They will search for a way to reverse their direction and come back. At rush hour, people will be leaving the Fields, not entering. The DOT will know within the next three months if there will be funding. The uncertainty is a risk the applicant is not comfortable with, said Bill Bray. Dean Lessard said it is not uncommon to enter into an agreement with DOT at this point. They are coming up with a cost. The money can be part of the agreement. DOT will take the piece of property by eminent domain. Bill Bray said that Shawn Smith, the project designer, will come up with a construction number in October.

Christine Grimando said again the question is how to proceed with the dual applications. The board discussed the motion. Dave Woods suggested the board should approve both designs, designating the first design as a temporary fix. It is necessary to have a time frame for completing for completion with respect to what the State has for a confirmation of the commitment.

Motion: Dave Woods moved to approve both designs as presented in Plan 1, dated September 6, 2009, and Plan 2 (right-in, right-out) design dated March 2009. The Planning Board further required that an agreement with a state developer for the right-in right-out design be submitted to the Town. Todd Frederick seconded the motion. It passed, 5-0.

Waivers were discussed. The waiver for mandatory sidewalks was granted at a prior meeting. The proposed non-conforming angle of the intersection remains the same in the plan, and a waiver is required to keep it as planned. The width of the access road has not changed with this plan and so requires a waiver. A waiver for glare and lighting issues was also sought.

Motion: Barrie Munro moved to approve a waiver of 8.2.6.1, the angle of the intersection, and 8.2.6.2, the width of the access road. Dave Woods seconded the motion, which passed 5-0.

Motion: Dave Woods moved to waive 6.3.6, for the glare and lighting level. Lew Stowe seconded the motion, which passed 5-0.

Christine Grimando had given out illustrations of the average heights and grades of the neighboring buildings. That information will be provided to Code Enforcement when applying for the permit.

Torbert Macdonald asked the engineer about the drainage scheme. He asked if everything from the property ends up in the deep retention pool. Jeff Clifford said different impervious areas disconnect from one another. The technique is to send water to several different areas. Some areas are detained directly in the wet, forested, and porous area. Discharge from the parking lot goes to multiple places, including the detention pond and rain gardens. The detention water ultimately drains toward New Town Road before traveling under Route 1 to wetlands on the other side. Jeff Clifford showed the water directions on an aerial photo. No additional water travels to Route 95 and the tollbooths from this location.

Motion: Dave Woods moved to approve the preliminary approval grant on the plans submitted by Yorke Fields per Articles 6.3.1 through 6.3.5. Todd Frederick seconded the motion, which passed 5-0.

The Yorke Fields hearing ended.

New Business

Election of Officers

Motion: Barrie Munro moved that the current slate continue for the period of one full year—with the exception of the executive secretary (Barrie Munro), which position will be filled by Todd Frederick. Lew Stowe seconded the motion, which passed 5-0, making the lineup for the next year Tom Manzi, Chairman; Lew Stowe, Vice Chairman; and Todd Frederick, Secretary.

The wetlands on the Plotkin property (largely York's Wild Kingdom) have been delineated. Todd Frederick and Torbert Macdonald plan to assemble information Oscar Plotkin has provided and go look at the site. Todd Frederick asked how Town Hall staff could be approached to double-check that planning board research does not repeat research already done by staff. Someone must look into what procedure is taken for getting permission to go onto the land.

Board of Selectmen Task Assignments: Barrie Munro followed up on the results of the June 29 joint meeting with the Board of Selectmen. The meeting subject was the role of the York Beach Subcommittee. Committee member, Dawn Fernald, had gathered a history of all the committee's activities to the present. That body of information had been forwarded to the selectmen and copied to the planning board.

Other Business

Using a flow chart on paper, Lew Stowe spoke about the planning process. He explained that upgrading the Comp Plan is followed with changes in zoning. Concerns of those planning include policy deployment methods, comprehensive plan review, a comprehensive strategy, communication plans that concern property owners, focus groups, communications outreach, and communication program.

The Planning Board members signed the Mylar for the business formerly known as Wildcat Pizza.

Adjourn

The meeting ended at 12:15 A.M.