

**York Planning Board
Thursday, September 10, 2009, 6:00 P.M.
York Public Library**

6:00 PM

Call to Order, Determination of Presence of Quorum

Workshop

The following item will be the topic of a Planning Board Workshop in the hour immediately preceding the regular meeting.

- **Growth Area Rezoning Project**

7:00 PM

Call to Order, Determination of Presence of Quorum

Planning Board Chairman Tom Manzi introduced the board members and determined presence of quorum. Tom Manzi, Lew Stowe, Todd Frederick, and alternates Torbert Macdonald and Tom Prince were present. Dave Woods was absent. Barrie Munro was absent. Torbert MacDonald was asked to vote in Dave Woods's place. Tom Manzi suggested Tom Prince refrain from voting until he has had more experience in his new position. Town Planner Christine Grimando represented the town planning staff. Patience Horton recorded minutes. This application hearing lasted short of five hours and 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

There were no field changes

Minutes

Review and approve draft minutes

Lew Stowe and other board members requested changes to the August 13, 2009, minutes.

Motion: Torbert MacDonald motioned to accept the August 13 minutes as amended.

Lew Stowe seconded the motion, which passed 4-0.

Application Reviews and Public Hearings

Bournival Dodge 343 US Route 1. Map & Lot 0059-0001. Review of an application for a Revision to a Previously Approved Plan

York Planning Board Minutes

September 10, 2009

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This submission is an amendment to a previously approved plan, and follows a site visit made to Bournival Dodge earlier this summer. Tom Manzi and Lew Stowe were on the walk. Town Planner Christine Grimando said the applicant had come to the Planning Board earlier this summer to correct the non-compliance to the original, approved site plan. Chairman Tom Manzi summarized the point of this hearing: "Are we there yet"?

There were ten original items of non-compliance. Of them, the southern entrance had been made clear of obstructing vehicles. Shrubbery was added as required. There is a plan to replace the berm with a swale to clear water out of the driveway culvert. The lighting design, different than originally planned, was considered acceptable. The vegetated islands around the light were not necessary. They would not be visible from the road. The approved vegetated island near the car wash had been replaced with two trees which were added to the two trees already there. The originally approved evergreens (six) had never been installed, but a fence went it, which was fine for the abutters.

Christine Grimando said of ten original items, Nos. 7 and 10 remained outstanding. They are the car display ramps and the entrance landscaping. The high vehicle display areas have to be lowered. Rick Tara said the asphalt will be taken off of the ramps, which will lower them. Then, riprap will be removed and nine inches of loam will top the mounds, which will then be replanted according to the plan. The resulting size of the display ramp will be cut in half.

Christine Grimando said the pavement does not conform to the plan. There was a building demolished, and the pavement there is now gravel. Lot coverage is not part of the problem. The allowable impervious is 75%. This lot has below 75%, and more asphalt is being taken out.

The landscaping does not conform to the original Terra Firma Landscaping plan, but a new plan has been submitted, said Christine Grimando. The applicant has added landscaping and trees in front of the car display area. Rick Tara said the original plan called for stonewalls, which cannot be done. There cannot be shrubbery around entrance, because of traffic sight issues.

The board and applicant discussed dumpster relocation to a great extent. Todd Frederick said 6.1.14 calls for screening of dumpsters. Torbert MacDonald read 6.1.14 aloud. Christine Grimando directed the board to a more correct, but very similar, section, and she read it. Tom Manzi said the code enforcement officer who wrote up this violation in the first place did not "catch" this dumpster violation. Torbert MacDonald re-read part of the section that emphasized the word "shall." The four-sided, six foot high stockade fence *shall* not be waived. It is an ordinance that has to be enforced uniformly in all zones. Christine Grimando said there is wiggle room to the standard 6.1 and 6.3 regarding performance standards, if the existing or nonconforming uses meet or exceed the best practical extent.

Bournival Dodge Manager Rick Tara said the dumpster cannot be seen where it is, behind the building. It is hidden from Route 1 traffic. It would be quite ugly to enclose. It would be a bit of a challenge to screen it. Torbert MacDonald said the challenge is doable. Todd Frederick wants to keep within the ordinance. Richard Bournival noted that the fence around the dumpster is not included in the citation. Christine Grimando told the board they could ask the CEO to follow up on it as a code issue. Torbert MacDonald said the CEO can revisit the issue and take appropriate action. Tom Price said he felt the dumpster behind the building doesn't create an eyesore.

Richard Bournival agreed to put the fence around the dumpster, saying it is in the original plan. The dumpster position will be behind the building and will be screened, and this will make a change to the new document.

Christine Grimando said drainage became a flagged item during the site walk. A new drainage analysis can be requested, but it is not in the preview of this review to include items newly noticed on the site walk. It is not in the scope of this application. Neither does this concern trigger a new stormwater plan. Lew Stowe said there is no understanding about what happens to the water on the property. He understands the ditch along the back is directed through a swale and under Route 1 toward Route 95. Rick Tara said a swale and culvert are planned. The swale should adequately handle the water from the road. Orchard Farms has a significant issue with water draining off businesses in this area. Christine said what Richard Bournival and Rick Tara are proposing is adequate to satisfy this requirement. Christine Grimando said at the end of the process, there should be a stamped as-built survey for the landscape plan and everything that was eventually done.

Richard Bournival closed the hearing with a few words. He has shown a spirit of cooperation and will go through with the changes diligently. The original plan didn't make sense. He had sold off many of his dealerships before the "holocaust." The man running this dealership died—which is why many things on the plan did not get finished. It looks like this dealership will be one of the prettiest, decorated, vegetated car dealerships in the world. He understands the requirement of the as-built plan. He asked for the compliance deadline to be May 30, 2010, so the planting can be done in the spring.

Motion: Torbert Macdonald moved to approve the revised plan according to the memo from Christine Grimando to the Planning Board, dated August 31, 2009. Lew Stowe seconded the motion. The motion passed, 4-0.

After brief discussion, Torbert Macdonald and Lew Stowe agreed to add the friendly amendment with reference to the screening of the dumpster.

The prior vote was rescinded and re-stated.

Amended Motion: Torbert Macdonald moved to approve the revised plan according to the memo from Christine Grimando to the Planning Board, dated August 31, 2009, in-

cluding an additional requirement to screen the dumpster. Lew Stowe seconded the motion. The motion passed, 4-0.

Perkins Subdivision. 17 Ledge View Lane. Map & Lot 0006-0004-E. Preliminary Review of a Minor Subdivision Plan

Christine Grimando described this plan to create a minor two-lot subdivision. It was last heard in October 2008. The previously approved road plan is un-buildable. The board had told the Perkins to minimize the impact to the wetland and create an 18-foot-wide travel way. A change in the original road design has been made. This is about the road design and two lots.

Alex Ross of Ross Engineering, Portsmouth, pointed to the plot plan showing three lots of the original subdivision with three houses. He showed the proposed easement and road into the existing right of way. He showed locations for the two proposed lots and one non-conforming lot accessed from Pine Hill Road. That owner with the Pine Hill access would use this other road for frontage, but not for access.

Attorney Nick Strater said the process of dividing this parcel started in 2002. When Barbara and Scott Perkins, the owners, came to then-Town Planner Steve Burns, Steve Burns focused on the road design, indicating there were no other big issues. Road design was also the concern of the York Planning Board when the sketch plan was presented last October (2008).

Nick Strater showed the original right of way on a plot plan. The applicants want to relocate it and come into the property differently. They are proposing to move the 50-foot right of way from a location on a property to another location on the same property. Nick Strater said that would keep a non-conforming lot non-conforming, but the non-conformity is already there, and there is no change.

In her memo, Christine Grimando had addressed a waiver request for a fire pond the York Beach Fire Chief had made. The safety of the turn out of the property at Jane Lane and Pine Hill Road is at question. Nick Strater said a fire pond is out of the question. Instead, the houses will have sprinkler systems. He said the odd shapes of the lots that are prohibited by 7.6.7 (flag lots), and are identified by 4:1 length-to-width ratios, are impossible to configure because five-acre lots are too large to make flag lots.

The Chairman opened the **Public Hearing**. **Alan Taplin** said he has abutted the proposed lots since 1988. He has no problems coming out of his property and turning at the corners of Jade Lane and Pine Hill Road. It is good area for his 4-wheel drive. Alan Taplin said the applicants are landlocked. There is no way for them to come down from their area.

Peter Dominski has had no problem whatsoever coming from Jade Lane. He believes there are no safety concerns.

Steve Watson has owned Lot D since 1996. He has no problem with the road. Hearing and seeing no one else, the Chairman **closed the public hearing.**

Engineer Alex Ross discussed more of Christine Grimando's memo, specifically the requirements of the impact statement. He said the Town Planner's requirement to address the impact statement is an oversight, if the Impact Statement is not applicable. Christine Grimando replied that Planning must receive a section called the Impact Statement. Also, she said, 6.3.5 does not follow correctly in the table of contents. Those items have to be addressed in one place.

The high intensity soil survey had not been an issue in the 2002 and 2008 reviews. A soil survey was done in March 1997, and test pits were monitored in 2007. In both cases, the surveys did not bring forth any useful information. Acceptable septic locations have been decided. It is not important to have the soil surveys, said Christine Grimando.

Other reviews have been requested but not received. The fire chief was asked to report back in May. All other review requests were part of the August submittal. A set land delineation, not requested before, will be submitted with the report, said Alex Ross. Christine Grimando asked that a written report accompany those results. The plan scales for the improvements of the roadway have to be shown by the engineer drawn at the appropriate scale of one-inch to 100-feet. There is not yet such an engineered overview. The boundary survey does not show an 18-foot roadway in place. Alex Ross said the details on the requested scale would be too small to show the before-and-after difference in the road. He said he did not understand the need for separate plans and mentioned the increased cost. Despite further instructions from the Town Planner and suggestions from Torbert Macdonald, Alex Ross said it is not clear that the existing conditions cannot be done the way he has it, on one plan.

Nick Strater, responding again to the memo, said the open space requirement could be met by making a park or a recreational area. He asked for the board's guidance according to what has been approved in the past. He suggested adding notes indicating that a certain percentage of each lot would have to be preserved for open land.

Torbert Macdonald addressed the complicated, unacceptable form of the paperwork that had been submitted. It is difficult to make a judgment readily when having to locate information presented in that form, he said.

When asked, Nick Strater explained to Lew Stowe the significance of the lot that has to have frontage on the newly created road. It was a legal road because it showed frontage on an abandoned cul-de-sac, a paper road, but will become an illegal lot without frontage onto the new road.

Applicant Barbara Perkins said she and her husband bought the land in 1998 with the intention of subdividing. They built their house in 1998 and intended to subdivide in 2003. Wetland laws changed. CEO Tim DeCoteau said they couldn't subdivide, and the Board of Appeals backed that. In 2006, the Perkins worked with Steve Burns and Tim DeCo-

teau, who made recommendations about creating the subdivision. After that, Steve Burns left as Town Planner. They came back to the Planning Board in 2008, and the idea of making the road of varying widths began. The fire chief then required a fire pond and a huge road. At that hearing, the new Town Planner, Christine Grimando, requested other things, as well.

Christine Grimando asked the board if they thought the application is complete for purposes of preliminary review. Torbert Macdonald said it is not complete in the form that was required. The applicant cannot prove the requirements were met, because they weren't submitted in a viable format. Christine Grimando said that letters have been submitted to the Historical & Archeological Society, but that is not a showstopper.

Alex Ross said there is no question about completeness. All of 6.3 has been answered and can be reviewed. Every item has been addressed in some way. The impact statement has been submitted.

Todd Frederick pointed out the lack of pagination. Chairman Tom Manzi asked the board members individually if they agreed with Christine Grimando that there is no stopper. All the planners agreed there was no showstopper.

Christine Grimando reviewed the status of the application. Historical and archeological resource is an open item, but the report has been requested. Some high intensity soil survey information has been gathered, but there is not a full survey on vernal pools (Alex Ross then walked across from the podium and handed the Town Planner a piece of paper—a soil survey waiver request). The wetland delineation has been completed, continued Christine Grimando. An accompanying report is pending. The submission issue is centered on the design professional submission. That would be the survey of existing conditions and the engineered plans, with the 1:100 scale for the road, which accurately reflects the varying road widths. Still, as a pending amendment, the application is complete for purposes of review, she said.

Christine Grimando read from the Site Plan & Subdivision Regulations where it states 6.3.3 shall be consolidated in the plan set. Torbert Macdonald said that the applicant should not be penalized because the fire chief has not responded.

Motion: Torbert Macdonald moved to accept the application as complete for purposes of preliminary review. Todd Frederick seconded the motion, which passed, 4-0.

Alex Ross asked if the soil survey is necessary. He had been asked for a letter from the soil scientist. Todd Frederick recommended the board wait for the letter. The waiver will come when there is a letter. The hearing concluded.

York Trade Center, LLC. 26 US Route 1. Map & Lot 0086-0002-C. Sketch Review of a Major Site Plan.

Christine Grimando explained that major and minor site plans are determined by square footage, major having 10,00 square feet or more. This major site plan sketch plan con-

cerns the refurbishing of an original sheet metal building, the former Organic Gardens Landscaping business on Route 1 South, and the addition of four more metal buildings.

Steve McNally of Paradigm Engineering gave an overview. The land was subdivided into Lot A (4 acres) and Lot B (9 acres) in 2002. The four-acre lot is subject to this application. The access drive would be improved. There is no sewer available, and there is no Memo of Understanding between Kittery and York about Kittery's extension of sewer to this part of York. Septic will be on-site, and water is intended to be provided on-site. The impervious portion adds up to 68,000 square feet. He described the buildings, parking requirements, and street improvement, including elimination of the current vehicular exiting strategy via backing directly out onto Route 1. The new complex will have sales and assembly areas. The term "light industrial" uses, such as commercial plumbing and carpentry, will be avoided, though some assembly would be allowable for tenants. That brings in the question of when commercial crosses into industrial. The property is zoned for mixed residential.

The building design might not be as New England-y as expected, continued Steve McNally. There is only so much that can be done with a metal building, but the applicant will try to meet the New England character. The Trade Center is not so much architecturally oriented as functional. Bragdon Commons and the Pigs Fly Bakery are both metal buildings. Torbert Macdonald said the lack of design standards leaves one subject to arbitrary judgment. Screening would be very important on this project. The limited amount of parking would disallow a second story building with apartments.

Todd Frederick returned to the New England character. If certain colors, wood, stone, and brick are not utilized, the applicant has to demonstrate why they were not used. Torbert Macdonald cited 6.3.13.4, and recommended new construction materials. Tom Price asked if the existing building would look like the others. Steve McNally said they would. The new buildings will be metal. The existing building, referred to as an ugly ducking, was one of the original metal buildings in the country, built in the 1950s and still in use in 1990. You could land a helicopter on it, he said.

Whatever is done to the building will make it look better. It will have shielded light in the parking lot. It is a low traffic area and will not generate additional noise with cars. We will go as far as we can go aesthetically, said Steve McNally. Drainage impacts will be considered, as will buffering and screening. The board may require up to 10% of the area for open space, said Tom Manzi.

The frontage is nonconforming. Where 50 feet is required, there is 43 feet. If the orientation could be changed for a side setback, and the measurement could come from the edge of the lot line instead of the edge of the road, the conformity would be returned. The rear setback is maintained to any of the Trade Center buildings. Christine Grimando said the parking lots along the lot line are structures from which the setbacks cannot be measured. Steve McNally said the applicant would therefore show the standards of non-conformity. Torbert Macdonald suggested maximizing the buffer and green space to the north for the abutters.

Steve McNally traced the buffer line across the site on a plan. It runs at 30 feet, except for two places where the lot lines come in closer. Christine Grimando said buffering the residential properties at the rear is a great issue. She asked if shared parking had been considered. Parking at different times with different uses would reduce the parking requirement.

Applicant Arthur Pappas said the property had most recently been used for woody assembly by a cabinetmaker. In the past year-and-a-half, as a property broker, Arthur Pappas has received inquiries for uses of the metal building from an investment real estate broker, a dry cleaner, a jeweler, a bath fixture retailer needing a showroom, a grocer, an aquarium assembler, and a day car provider. This will not be a fancy, expensive group of buildings. The cost is intended to be reasonable. People who do business there will get a lot for their money. Chairman Tom Manzi opened the **Public Hearing**.

Tom Fisher has lived on Creation Lane for 30 years. The new buildings will squeeze out the residents. The highway is noisy. There is no answer about what is going in there, how much they are going to work. Everything in there, we don't want in there. There is hot top inside the protective radius area. The septic tank is right on the bank of the culvert that flows by Derocher's house. The 119 parking spaces will make it a very active place. It is not far from the Kittery/York Line. There should be something appealing coming out of York. A berm was bulldozed and caused runoff water problems and damage to wells. Wetland areas--there are all kinds of wildlife in the area, including turtles. The lights from cars going south on Route 1 hit you right in the eyes. We feel like we're being squeezed out, said Tom Fisher.

Dick Derocher said his property is 10 feet downhill from the Organic Gardens land. He can't mow in the spring, because his land is under water. From his kitchen window, he can see water coming down the hill. It stands on the lawn. Car lights shine directly into his bathroom and his kitchen. The noise he hears is not from cars or the kitchen fan, but from hammer-and-metal noise. He cannot say what he is objecting to, because he doesn't know what's going on.

Lloyd Pelletier asked if there are restrictions for this project in the deed. The deed does have use restrictions. The lady who used to run Organic Gardens said the deed does not allow commercial operations, like a machine shop, in the big building. The drains in the back lot flow into the area where the Derochers live and then into Route 1. The other water drained under Route 1, but that culvert is covered up. Drainage that leaves that side will drain under Route 1 to the river. Torbert Macdonald described how the water goes under Route 1 and into the Dolly Gordon Brook. Lloyd Pelletier said the land in back, next to the pond, would be possible for a housing development, but he cannot believe that putting in this industrial site will not affect his house, his house value, and that of everyone on the street.

Myron Gilman said the pond on the edge of Parson's Lane is 7 feet deep. It overflows every spring on his and other people's yards, too. The current owner of that property

maintains the pond. The overflow pipe runs one or two months of the year and goes through a book on his property down toward Route 95. Torbert Macdonald asked if there is a drainage easement for that to go across Myron Gilman's land. Myron Gilman answered he is not aware of one. He also is not sure if it goes down toward Route 1.

Barbara Derocher, of 6 Creation Lane, said that when the nursery was there, water was piped from the pond and used to water all the plants at Organic Gardens. Different owners used pond water that way over the years. The original owner told Barbara Derocher that the pond was created from the springs on the land. It was dug for the nursery by the State of Maine. The drainage is a big problem with the building and the parking lot, and it will go right onto her property and cause more problems. It puddles in her yard. She has a built-in sump pump. She lives in a beautiful, quiet neighborhood, and all are concerned about what kind of life is going to come in with noise and drainage. She is also worried about lights coming into her building. The addition of 119 parking spaces makes lots of added traffic and light.

Lloyd Pelletier said the road accessing the site is going to create a hazard. There have been accidents in the area. His neighbor's boy got killed at the traffic light. Lloyd Pelletier had an accident there, and so did Mrs. Derocher.

The **Public Hearing closed**. Torbert Macdonald said the stormwater runoff should be captured and brought to that pond and not brought under Route 1. It should not go into Dolly Gordon Brook. The applicant should look at the most advanced on-site retention and release system as possible, as recommended by the UNH research center. Steve McNally said the water should be out of the parking lot into to the pond and through grease traps. It should then go across Route 1 into a water system.

The York Trade Center hearing ended.

New Business

There was none at this hour.

Old Business

There was none.

Other Business/Adjourn

Mylars were signed. The meeting ended at 11:45.