

York Planning Board
Thursday, May 26, 2016, 7:00 P.M.
York Public Library

Call to Order, Determination of Quorum; Appointment of Alternates

Chairman Peter Smith called this workshop meeting to order at 7:00. A quorum was determined with four people voting: Chairman Peter Smith, Vice Chair Amy Phalon, alternate Wayne Boardman, and alternate Kathleen Kluger. Gordon Eldridge, Lew Stowe, and Al Cotton were absent. Planning Director Dylan Smith and Assistant Planner Scott Hastings represented staff.

Public Forum

No one came forward to speak.

Minutes

The minutes of May 12, 2016, were reviewed and corrections were requested.

Motion: Amy Phalon moved to approve the May 12, 2016 minutes as corrected. Wayne Boardman seconded. The motion passed 4-0.

Field Changes

There were no field changes.

Application Reviews

Tiki Bar, 20 Harris Island Road; Map & Lot 0083-0002

The applicant is proposing to add a seasonal, outdoor bar to the property operating on an existing pier. No new structures are proposed. The bar would seat 39 patrons and have 4 employees.

This is a continuation of the Harris Island application review of May 12, 2016.

There was a site walk for this application “yesterday,” May 25, from 9:00 A.M. to 10:30. It was attended by Planning Board members Kathleen Kluger, Wayne Boardman, Lew Stowe, Al Cotton, and Scott Hastings, the Assistant Planner. The site walk was hosted by the applicants, brothers John, Eric and Phil Lusty, with Eric Weinribe, the project engineer. Several abutters also attended.

Chairman Peter Smith began the application review by reading an email into the record from absent Lew Stowe, who recommends putting a two-year sunset clause on the approval, if the application is approved.

Applicant presentation and Board discussion revealed many facts about the application.

- The trip generation report has not been accepted by DPW director Dean Lessard, because it has not been established if the site is used for takeaway.
- The bar will be called the Deck at Dockside.
- Peak hour traffic would generate 15 round trips.
- The takeaway use is for people on boats tied to the dock or buying gas for boats.
- Servers and barkeepers will come from the staff at Dockside.
- The service style is “fast casual.” People order at a counter and servers deliver to the tables.

The public hearing was opened with a motion from Wayne, a second by Kathleen, and a 4-0 vote from the board.

Joan Jarvis, 19 Stage Neck Road, went on the site walk. She sees the Deck from her porch. She asked if there can there be 39 people seated and another 20 people standing during open hours. She asked that if the bar closes at 9:00, can food be ordered up until 8:55 for the patrons to enjoy until 9:45. The “conditional permit” sunset clause should last just one year, so the board can review it soon.

Brian McGann lives across from the Tiki Bar. He attended the site walk and thought it was held excellently.

Mack Donnell, Vice Chairman of the Harbor Board, said the Harbor Board will hold a public hearing for this application at their next meeting, Wednesday, June 1, 7:00, at the Senior Center.

Joey Donnelly of York Harbor reiterated the points he made at the Planning Board’s May 12 public hearing. “Once you change it, it will be very hard to get back what we had,” he said.

David Webber spoke as an abutter. He said Zoning Section 4.1.1, Residential Districts, states that restaurants are permitted only on Harris Island in conjunction with the hotel/motel. Nothing about the bar has been described as being in conjunction with the hotel or motel, he said, just the marina.

Jonathan Strater lives directly across the water from the marina. He does not understand the connection between the ownership of the hotel and restaurant, and how this restaurant can be connected into the marina. The Chairman closed the public hearing.

- Phil Lusty said that the three brothers are equal shareholders of the restaurant, inn, and marina, and they own all the property equally.
- John Lusty said they are willing to make 8:30 last call. Everyone will leave by 9:00. Music will also end at 8:30. They are willing to shorten the sunset clause to one year.

- They have seating for 39. Because of the “bathroom count,” they can have 50 people at the Deck. The fire department has given a capacity rating of 50.
- For music, they were thinking of playing Pandora.”

Amy Phalon said she did not think the use is permitted. The zone is very restrictive and commercial uses are limited to those currently on Harris Island. It is not clear that the use is in conjunction with the marina and not with the hotel. How many restaurants can be conjoined with the hotel? The bar is in conjunction with takeaway for the boats, but there is an expressed prohibition of certain forms of takeaway. Artisanal food and beverage is not permitted. Open air places with entertainment are not permitted.

Motion: Amy Phalon said, Mr. Chair, I move that we continue this application to our next meeting on June 9, 2016. Kathleen Kluger seconded. The motion passed 4-0.

The York Planning Board will conduct a Public Hearing regarding proposed ordinance amendments to be potentially considered at the November 2016 General Referendum

Interpretation of District Boundaries

Dylan has prepared language to tighten the zoning ordinance for district boundaries. It states that a boundary line on the surface of the ground, or a map, or certified plan, extends invisibly vertically to the sky. This thwarts any potential uses that try to cantilever property into another boundary or district.

Board members planned to refine the verbiage. The chairman opened and closed the public hearing. No one came forward to speak.

Motion: Amy Phalon moved that we send the District Boundary Lines Definition Amendment to the Board of Selectmen. Kathleen Kluger seconded. The motion passed 4-0.

Wetland Protection Overlay District

Dylan has made minor changes in Section 11.3.2, regarding utilities, driveways, and road crossings. By clarifying the section, the new language will especially be of benefit to the Board of Appeals and the Code Office.

The chairman opened and closed the public hearing. No one came forward to speak.

Motion: Amy Phalon moved that we forward Amendment 2 of the Wetland Protection Overlay District Amendment to the Board of Selectmen. Kathleen Kluger seconded. The motion passed 4-0.

C. Article 8 – Shoreland Overlay District

This lengthy discussion resulted in the decision to re-install State language in some places and rewrite some sections of the ordinance.

The public hearing was opened with a motion from Kathleen, seconded by Amy, and a 4-0 vote from the board.

Renee Hackett's family owns coastal property in York. She said that from reading the ordinance proposal, she could not understand what "structures 25 feet from normal high water mark" means in relation to her property. She said she was glad the group is going back to the drawing board and wished them good luck.

Kathleen moved and Amy seconded to close the public hearing. The Shoreland subcommittee will meet again to discuss what was discussed tonight and make appropriate changes. There will be a public hearing on Wednesday June 23.

Review Ordinance and Comprehensive Plan Initiative

Land Use Application Fees

Through Zoning Ordinance Art. 1.5, the Board of Selectmen are authorized to adopt a schedule of maintenance fees for processing applications. The application fee for the Cliff House plan revision hardly covered the filing fee, processing of abutters, newspaper notifications, scanning of documents, and review of the application. The Board of Selectmen plan to change the fee schedule.

Site Plan and Subdivision Regulation Separation Project

A Site Plan Subdivision Document Separation Committee will be established after the Planning Board has worked its way thru the current amendments. The completed project will be proposed for the November 2017 referendum.

DRAFT Energy Comprehensive Plan Chapter

Some members of the board did not like the layout of the Energy Chapter and felt it could be presented better. The rearrangement of goals and strategies was suggested, as was creation of a chart of goals and actions to put at the end of the chapter. Dylan said there is a public hearing coming up in June which might lead to major changes.

Other Business

On May 9, David Raymond spoke to the Board of Selectmen about updating and adopting the new definition of “Wireless Communication.” That item will be included in a Planning Board public hearing.

Peter Smith reviewed a letter from the Historic District Commission about expanding the boundaries of the Historic Village. Involved buildings will include Ellis Insurance, Bank of America, and the York Telephone Company. By putting these buildings, and others, under the HDC umbrella, their historic integrity will be protected. The Planning Board will hold a hearing for this item in July.

Dylan Smith said Section 5.c of the Site and Subdivision Regulations emphasizes that the board must not engage in substantive review or discussion during site walks, and that section should be read aloud to all participants by the Planning Board’s chosen leader before every site walk.

Because the Library’s Annual Book Sale overlaps with the Planning Board’s July 14, 2016 meeting, the meeting has been rescheduled to July 7.

Adjourn

Kathleen Kluger motioned to adjourn. Amy Phalon seconded. The motion passed, 4-0. The time was 10:30.