

**TOWN OF YORK PLANNING BOARD  
THURSDAY, SEPTEMBER 22, 2005, 7:00 PM  
YORK PUBLIC LIBRARY**

Chairman Barrie Munro began the meeting at 7:00. Barrie Munro, Richard Smith, Tom Manzi, and alternate Lee Corbin were present. Glenn Farrell, Glen MacWilliams, and Michelle Moody were absent. Town Planner Steve Burns was absent due to illness requiring hospitalization and recovery. Planning Office GIS Manager Brett Horr represented staff. Patience Horton took minutes. The chairman began by introducing the members of the board and the staff.

The agenda item, **Meadowbrook Plaza LLC and York Meadowbrook Plaza II, LLC**, (Dunkin Donuts) was continued to another meeting because of Steve Burns's illness.

**Public Input**

**Open to the public to address any issue other than issues scheduled for public hearing on this agenda.**

Dave Gittins, of Moulton Brook Storage, said that before Town Planner Steve Burns got sick, Dave Gittins had discussed his application with him, hoping to include it on the October 13 agenda. Steve Burns had indicated that he felt the application would be complete in time for the hearing. Brett Horr said that in Steve Burns's absence, he had spoken to the project engineers, Bill Anderson and Mike Livingston, and they had confirmed that they were ready and planning to present at that meeting. Barrie Munro said that he and Brett Horr would go through the pending applications and assemble the agenda for October 13 and then notify Dave Gittins about it.

Next, Walter Woods said that the Bayberry Ridge plan he had presented to the Planning Board a few months ago was deemed inadequate because of the wetland ordinance. He asked to be on the October 13 agenda for review of a new preliminary application for that site. He passed a conceptual plan out to the board. Barrie Munro said that he would discuss the possible agenda item with Brett Horr, and Walter Woods should call Brett Horr.

Helen Rollins Lord, Chairman of the Historic District Commission, spoke about the conversion of the Atlantic House and the Kearsarge Hotel. A site visit was planned for Monday, October 26 at 4:30. She asked the Chairman to send a Planning Board representative to that site visit. Brett Horr said that the visit had been properly posted in several newspapers, including the York, Portland, and Portsmouth papers. Helen Rollins Lord said she hoped to discuss suggested changes at the end of the site walk. Barrie Munro explained that as part of *ex parte* considerations, Planning Board members have strict requirements to listen and observe, but not to engage in discussion on site walks.

Builder John DeStefano, representing applicants Don Rivers and Harold Anderson of the Atlantic House and the Kearsarge Hotel, referred to their February, 2005, presentation and public hearing. Since then, the owners had dealt with specifics of the project. John

DeStefano said that he was confident he had put in a complete application, and he hoped to be on the October 13 agenda for both Preliminary and Final approval. It was his intention to start the work soon and finish the project before the Memorial Day weekend traffic begins, Spring 2006. He hoped to cause the least disruption possible to Beach merchants by. He said he had dealt the different agencies, and had the necessary departmental letters of approval. HDC has also been involved. There are no requested waivers.

Barrie Munro instructed John DeStefano to contact Brett Horr on the upcoming Monday for scheduling information. Barrie Munro and Brett Horr talked about Southern Maine Regional, which will be supplying an expert to come to the York Planning Office one or two days a week, while Steve Burns is out, to figure out if various applications are complete for purposes of review, or not. Barrie Munro said that posting for the October 13 hearing has to be done by the October 3, a week and a half away.

Jerry Lewis, Director of Facilities at Stonewall Kitchen spoke next. He said there are four new projects at Stonewall Kitchen, including the warehouse expansion, in yellow on the plan he showed, which was approved in March 2003, but not yet built. That evening, he had an application for converting part of the 14,000 square feet of the industrial area, currently specifically used for packing, into a showroom for appliance retailer Aga, of Great Britain, with which Stonewall Kitchen has contracted. Aga hopes to be in the new retail space at Christmas. Secondly, Stonewall has secured 40 spaces of employee parking across Radon Road on the Goodwin property, leaving 146 spaces on the main premises. Barrie Munro said that he hoped the project could be heard on October 13, even if it means allotting time specifically to each application with the possibility that, if an application were not completed, it could be tabled to another meeting. That method was conducted at the September 8, 2005, Planning Board meeting with what Barrie Munro called mixed success. Barrie Munro asked about the parking on the Goodwin property. It used to be an auto dealership. It will not be shared parking. Builder John DeStefano said that Code Enforcement had reviewed the parking plan and found it agreeable. Brett Horr said that the applicant might want to run it by Public Works Director Bill Bray because of safety issues with crossing the street. Barrie Munro said that the board is interested in what changes there might be to the signage on the building. John DeStefano said that there would not be signs changed on Route 1.

Eric Bergeron of Sanford Institute for Savings was final person to speak to the Public Input session that evening. He referred to the September 20, 2005, letter to the Planning Board from architect Michael W. Lassell with e-mail attachment from York Fire Chief Chris Balentine, which stated that burning down the old Mandarin Restaurant would be good for the Sanford Institute (demolition) and for the Fire Department (fire training). Brett Horr stated that, if bulldozing the site after the fire is not permitted, because it would change the foundation, and since the foundation location has been surveyed, anyway, burning the old structure should be allowed. Tom Manzi said that abutters would have concerns, if it is a very hot fire, or if there is an awfully lot of smoke. Applicant Eric Bergeron said that the Fire Department has visited the site to figure out how to go about it. Brett Horr said that there probably are State Fire Marshall rules about the condi-

tions for burning. It should come after rainy days where there is plenty of moisture in the ground. Tom Manzi said that if there is asbestos in the shingles or lead in the paint, the smoke and what goes up in the flames could be harsh on the abutters' properties.

Eric Bergeron brought up the burning of the Red Apple, the York Oil Company building that was recently replaced with a new building. Barrie Munro said that the Planning Board had nothing to do with that burn. Barrie Munro asked Brett Horr to write to the Fire Chief and inquire about the health and safety impact on the immediate residences and business that might be subject to smoke and heat impact. Also, how traffic would be handled should be understood. Barrie Munro admitted that he did not understand the Planning Board's responsibility with regard to notification of the abutters, but supposed that any residence within 300 feet should be notified. Brett Horr asked the applicant, Sanford Institute for Savings, to provide letters it has received from the Police and Fire Departments concerning the planned burn.

## **Applications**

**Joseph DeMartine, 248 & 254 Pine Hill Road, Map 6/Lots 8C & 8B. Public Hearing. Application to amend an approved subdivision by a boundary line adjustment between two adjacent lots. The proposed amendment will bring each lot into compliance with the minimum lot size requirement for the zone.**

Joseph DeMartine gave a background of the property. He had bought it in March 1998. A neighbor immediately wanted to sell him a middle lot next to Ray Buell's property. The deed said there were 2.01 acres to that lot. However, the 1986 plot plan said there were 1.99 acres. He had applied for a growth permit in January 2004, and he installed septic. He wanted to make sure the lot was fully conforming. He brought a proposed plan to the Planning Board showing a new lot line, which would bring the lot up to 2.02 acres. Barrie Munro said that by law, the nonconforming lot is to be consolidated with a conforming lot, and then the old lot line is to be amended so that they are both conforming.

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

Richard Smith said he understood the process for merging lots to form a single lot when at least one is non-conforming. The steps include §17.3.1 of the Subdivision Regulations. The lots have to be merged with the approval of the Planning Board (§17.3.2), and then §5.6.1 and §5.6.3 regulate re-creation of the lots. Barrie Munro added that there have to be waivers in this application. Tom Manzi commented that the error of is equal to ½ of 1% in the calculations, "a surveyor's slip of the slide rule."

Joseph DeMartine said that he had had the property re-surveyed. Lee Corbin pointed out that the reference to an iron pin in the northwest corner between Lots 1 and 2 on the 1986 survey was replaced with a reference to a deciduous tree on the proposed lot line adjustment.

Barrie Munro said that the two lots could be combined and then separated to make the necessary changes, as long as they do not create nonconformity. The first necessary waiver of §7.4.1.3 was for the submission of the easement. The second waiver of §6.3.3.b concerned the leach field, or Improvements on the Property.

**Motion** Lee Corbin moved to approve the adjustment conditional to Staff's receipt of the applicant's written request for two waivers: one for §7.4.1.3 (Easement) and one for §6.3.3.b (Improvements to the Property). Tom Manzi seconded the motion, which passed, 4-0.

Richard Smith said that on January 23, 2004, an application was filed for the lot, but the lot did not exist by town ordinance. Barrie Munro asked Brett Horr to give a letter to the Acting Town Manager indicating that the lot has to be legal before an application can be made.

**Meadowbrook Plaza LLC and York Meadowbrook Plaza II, LLC. 647 & 659 U.S. Route One. Map 91/Lots 8W & 8Y. The application is to be tabled and no public hearing will be held.**

Postponed due to Steve Burns's illness.

## **Other Business**

This part of the meeting had to do with the document **2005 Planning Board Comprehensive Plan and Zoning Ordinance Amendments Preference Votes**, covering the following 22 items.

### **Comprehensive Plan Amendments**

1. Comprehensive Plan--Economic Base Chapter
2. Comprehensive Plan--Utilities Chapter
3. Comprehensive Plan--Transportation Chapter
4. Comprehensive Plan--Growth Projections Chapter

### **Zoning Ordinance Amendments**

5. Zoning Ordinance--Home Occupations
6. Zoning Ordinance--Cluster Subdivisions
7. Zoning Ordinance--Wetlands Protection Incentive for Cluster Subdivisions
8. Zoning Ordinance--Route One Building Design Standards
9. Zoning Ordinance--Increase Buffers for Elderly Congregate Housing
10. Zoning Ordinance--Change Boundaries of the BUS-3 Zone in York Beach
11. Zoning Ordinance--Alter Regulation of Condominium Conversions
12. Zoning Ordinance--Reconsiderations by the Board of Appeals
13. Zoning Ordinance--York River Watershed Overlay District
14. Zoning Ordinance--Utility Pump Stations
15. Zoning Ordinance--Historic Landmark Designation of Grant House

16. Zoning Ordinance--Bus-as-a Structure Issue
17. Zoning Ordinance--Reduce Permitted Uses in the GEN Zones
18. Zoning Ordinance--Extent of Control of the Shoreland Overlay District
19. Zoning Ordinance--Amend the Shoreland Overlay Sub-district Boundaries
20. Zoning Ordinance--Structure Expansion Limits in the Shoreland Overlay
21. Zoning Ordinance--Amend the Septic Setbacks in the Shoreland Overlay
22. Zoning & Floodplain Management Ordinances--Fee Schedules

Barrie Munro began by asking for the Planning Board for approval for the four Comprehensive Plan Amendments.

**Motion.** Tom Manzi moved to approve the Planning Board's preference in moving toward putting these items on the warrant: the **Economic Base Chapter**, the **Utilities Chapter**, the **Transportation Chapter**, and the **Growth Projections Chapter**. Lee Corbin seconded the motion, which passed, 4-0.

The Zoning Ordinance Amendments (#5-22) were discussed. The board decided to put all the amendments together in one vote, with the exception of Item 21, **Amend the Septic Setbacks in the Shoreland Overlay**, and Item 13, **York River Watershed Overlay District**. Richard Smith said that he wanted to pull out Item 16, the **Bus-as-a Structure Issue**. Lee Corbin said she did not want Item 11 included, **Alter Regulation of Condominium Conversions**. Board approval of all the other items was shown with the following vote.

**Motion** Lee Corbin moved approve the Planning Board's preference in moving toward putting these items on the warrant, Items 5-10 (**Home Occupations, Cluster Subdivisions, Wetlands Protection Incentive for Cluster Subdivisions, Route One Building Design Standards, Increase Buffers for Elderly Congregate Housing, and Change Boundaries of the BUS-3 Zone in York Beach**), Item 12 (**Reconsiderations by the Board of Appeals**), Items 14-15 (**Utility Pump Stations, Historic Landmark Designation of Grant House**), Items 17-20 (**Reduce Permitted Uses in the GEN Zones, Extent of Control of the Shoreland Overlay District, Amend the Shoreland Overlay Sub-district Boundaries, and Structure Expansion Limits in the Shoreland Overlay**), and Item 22 (**Fee Schedules**). Tom Manzi seconded the motion, which passed, 4-0.

Lee Corbin spoke about Item 11, **Alter Regulation of Condominium Conversions**. She said the amendment should be reevaluated more closely. It is possible the Town will over-regulate the change of ownership in a residential area. In fact, the amendment might be in violation of the law. Tom Manzi said he believed placing it on the warrant couldn't be reconsidered. After discussion, Lee Corbin decided to make the motion to defer approval pending further consideration.

**Motion** Lee Corbin moved not to support the amendment as it would appear on the forthcoming ballot. Richard Smith seconded the motion, which passed, 3-1. Tom Manzi voted against.

Discussing Item 16, **Bus-as-a-Structure**, Richard Smith said the item was trivial and affected minor transportation methods across a person's property like riding lawnmowers and electric wheelchairs. Tom Manzi said it had nothing to do with Richard Smith's electric wheelchair or lawnmower. Lee Corbin said that the board should acknowledge Richard Smith's concern.

**Motion** Barrie Munro moved that the Planning Board approve the Bus-as-a-Structure ordinance amendment with a preference vote. Tom Manzi seconded the motion. The vote tied, 2-2. Richard Smith and Lee Corbin against approving the motion.

Chairman Barrie Munro said that the tied vote had caused the motion to fail, resulting in the board taking no action. That meant that on the warrant, there would be no accompanying preference from the Planning Board next to the Board of Selectmen's show of support for Item 16, Bus-as-a-Structure.

Item 21, **Amend the Septic Setbacks in the Shoreland Overlay**, and Item 13, **York River Watershed Overlay District**, had been taken out off of the warrant, said the Chairman.

## **Other Business**

Barrie Munro referred to the document called Meeting Notes, September 22, 2005, Status of Ongoing and Pending Business. It included a list of the applications to the Planning Department in their various stages of completion. The list included J&B (revision of original submission is necessary), Anchorage (upcoming site walk), Moulton Brook Storage, York Hospital (probably a field change, not a site change, said Brett Horr), and others. There were about 30 applications at the Planning Office.

Outdoor display regulations were discussed (CEO responsibility with possible involvement from Selectmen and Town Manager).

Barrie Munro went over the Occupancy Permit plan note, with the intention of asking the Town Attorney if it passes muster.

Adjournment was at 9:20.