

York Planning Board
Thursday, May 24, 2012, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Lew Stowe determined the presence of quorum with four voting members: Torbert Macdonald, Jr., Tom Manzi, Lew Stowe, and Dave Woods. Todd Frederick, Dave Glazebrook, and Tom Prince were absent. Town Planner Christine Grimando represented Town Planning. Patience Horton took minutes.

Public Input

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

No one came forward to speak.

Field Changes

There were no field changes.

Minutes

Review and approve draft minutes.

The May 10, 2012, minutes were reviewed. Changes were requested. The Minutes were not accepted as written and will be re-reviewed at a later meeting.

Town Planner Christine Grimando said a special meeting is scheduled for signing of Police Station Mylars on Thursday, June 7, 2012, and a quorum of planning board members has been gathered for that meeting.

Public Hearings on Proposed Ordinance Amendments

Ord-1 General ADU Ordinance	Siting and Dimensional Standards
Ord-2 Zoning	Rear and Side Setbacks & Buffers
Ord-3 Zoning	Reformat Art. 4, Civic and Public Use Regs.

Ord-1; General ADU Ordinance; Siting and Dimensional Standards

Using PowerPoint, Town Planner Christine Grimando summarized **Ord-1, General ADU Ordinance Siting and Dimensional Standards**. The ADU ordinance allows a single-family home to have an accessory dwelling that is clearly secondary to the family home. An ADU can be up to 900 square feet, which is as large as ADUs seem to go in area towns. Scarborough, Maine, has tough standards, and York looks to it for information.

ADUs have to be attached to the accessory structure, unless it is part of the principle dwelling. People have attached a single-bay garage to an ADU (in that order) and been able to say that the ADU is attached to an accessory structure. Problems, like that, with

the ordinance can most likely be worked out through siting standards and clarified language, said the Town Planner.

The Code Enforcement Office has asked to clarify the status of enclosed porches. Are they included in the 900 square feet or not? There has to be a percentage of the principle structure's gross floor area that the ADU can meet. 35% is a reasonable square footage for the ADU.

Considering design criteria, the ADU should be on the second floor of the accessory structure. That should prevent the ADU from dominating the structure. No more than one curb cut for the access shall be permitted. In Scarborough, the ADU cannot be more than 100 feet from the principle structure, and the architectural design of the ADU has to be in keeping with the garage, barn, cottage, etc., it is attached to.

Tom Manzi said that the tax assessment for the property would rise. The property owner would have to take that into account.

There is language about the new alteration stating the front entrance will have to maintain the single-family appearance. The secondary entrance will not be where the first is. The ADU will be on the second floor.

Torbert Macdonald said the word "practicable" should be used when there is a blanket statement like, "exterior stairs are restricted to the rear or sides of the building from where the primary entrance is located." These units would not have to be limited to a second floor, but could be on the third floor, as well. Applications for ADUs should be reviewed above the COE level because of design issues.

The Chairman opened the **Public Hearing**. **Jim Nadeau** of Cape Neddick pointed out words in Section 5 that all have the same meaning: gross floor area, maximum floor area, and total floor area. He said that ADU units are not ADA compliant. Barred access by a person in a wheel chair would make an unintentional consequence. Torbert Macdonald said ADA is not incorporated because this is a family unit, not a commercial application. Families can make accommodations for a disabled member.

Jim Nadeau recommended changing the language to indicate that, though there is single curb cut, a driveway could split and form another driveway.

He asked for clarification in 12C. Torbert Macdonald explained that the Town is encouraging apartments over businesses. The primary purpose of the ADU is to enhance the economic flexibility of a single residence. There is no prohibition on having an ADU on the first floor. This ordinance is concerned with *detached* accessory dwelling units.

Bill Dignan said a barn is an ideal place for an ADU, because an ADU is an impediment for many families if it is on a detached garage. Christine Grimando wants to see these in existing large, like barns. That makes a case for greater space being converted.

Bill Dignan said with the ADU having 900 square feet of living space, the rest of the barn still has space. With strict interpretation of the ordinance, would that space have to be counted? If we count storage space, said Christine Grimando, we would have to lower the 900 square feet. There is gray area about what gets closed off. Even seasonal areas, like a porch, are getting counted as living space.

Torbert Macdonald said there should be a different standard between existing and new construction for accessory buildings. The new would be given tight restrictions and the existing could be given more latitude.

The proposed minimum size has changed from 400 to 300 feet, and the maximum size has changed from 700 to 900 square feet. An increasing number of people would find a 300 square foot dwelling very attractive. When you get larger than 700 square feet, you start getting the Frankenstein effect, said Torbert Macdonald, who wrote this ordinance in the first place and has watched his “creation” turn into a kind of a monster.

Tom Manzi said the economic benefits for families, and the affordability of the ADU have been clarified, but the **Intent**, as proposed in the Statement of Facts, has not been explained.

What might be counted as living area? Area that is not finished space will not be counted as square footage. Dave Woods said a percentage of the total living space should be used as storage space, so, if with 900 square feet of living space you get 10%, you’ll have 90 feet of storage space, whether it is finished or not.

Dave Woods wondered what constitutes finished space. Is it insulated, not sheet rocked, not finished because you didn’t paint the taped joint, or because you have rough service bulbs in the sockets (versus the final fixture)? That is a CEO issue, said Torbert Macdonald, and I’d be interested to see how they deal with it. Lew Stowe commented that maybe the owner hasn’t finished it on purpose.

Ord-2 Zoning; Rear and Side Setbacks & Buffers

Town Planner Christine Grimando said there are rear and side lot line definitions that work with lots of “regular” configuration. But one application came before the board recently where, under current interpretations, the rear was three-fourths of the lot, and the side was a 15-foot little piece. There are many oddly shaped lots in town. There aren’t very clear standards for how those lots are interpreted.

The amendment speaks to combining the side and rear into one standard in Article 5, Dimensional Regulations. It includes a setback footnote change that increases setbacks along residential/non residential, common lot lines. In the case of Route 1 buffer standards where the rear lot lines are greater than the side, she recommends splitting the difference between them in 6.3.

Dave Woods said some commercial buildings, like the Kearsarge House, have fronts on two streets. The residents of the condos could have two possible addresses, Ocean or

Railroad Avenues. Christine Grimando said the building owner would pick, but only one side would be the front. In the Beach, the setbacks are already reached.

Lew Stowe said the proposed change makes the sides and rear basically the same. Christine Grimando said the 50-foot setback back exists if the commercial property abuts the residential property, putting the burden on the business property. That number is not set in stone and is suitable for a board decision. You can increase commercial/residential bufferyard standards.

Variances cannot be granted for setbacks, but can for bufferyards. Setbacks are defined. Bufferyards are not. The difference between setbacks and bufferyards does not exist in definition. The bufferyard is measured from the property line.

Torbert Macdonald said that reducing the plantings in the rear buffer yard is contrary to practical experience. Strengthening the buffer standards should include fencing and intense plantings, and not necessarily be based in distance. That is the way to protect residential from commercial. Lew Stowe said he would like to see the 50-foot setback plus a 20-foot buffer, which would have a certain density of plantings.

Dave Woods suggested reducing the size of a bufferyard by 50%, if the bufferyard material is doubled. Torbert Macdonald suggested protection of the residential area from the commercial area with 8-foot fencing. Christine Grimando said there is no requirement for a fence. There is leeway for screening, and units of vegetation make the standard for bufferyards. Changes to the requirements might be best made once the planning board group takes its delayed field trip to a local nursery.

The Chairman opened the **Public Hearing**. **Bill Dignan** said he worked on a property recently where Article 17 (and Code) required a 36-foot setback, and the base zone setback for same property was 30 feet. Christine Grimando said that conflicting language is in Article 17. The problem is in the ordinance, not in Article 5. It should be brought forward and put on the November ballot.

Jim Nadeau asked if rear setback mitigation would be allowed based on side setback increase from 20% or 25%. Christine Grimando said that might be the case in non-residential. The fencing and buffers do a lot more to separate and lessen the noise and distraction.

Ord-3 Zoning; Reformat Article 4, Civic and Public Use Regulations

The board started this reformat over a year ago. They went from tables to listing uses by zones. Then in May 2012, the board did the first section of use categories to find and define all of the uses. Residential uses were done first. Public, semi-public, and institutional uses are the current focus.

Animal offices are removed from this list because we define veterinary offices under commercial, said the Town Planner. Hospice is not being put in a use category because it does not have to be regulated. Hospices in homes and accessory to hospitals or medical

facility are allowed. If built from scratch, it would categorize as a hospital because of the similarity of services offered.

Jurisdiction is incorporated into the use category. Someone building a structure that is over 5,000 square foot comes to the planning board. If small, it goes to Code. Nursing home definition stays. Utility districts are in. Trade and commercial schools are too close and overlapping. Those definitions have to be reviewed. Rented offices are added.

During the last workshop, board members discussed whether or not it makes sense where and how zones are delineated in terms of uses. It would be smart of have some new zones, and we would probably get rid of more than we make. Torbert Macdonald said the zoning map was developed during the consolidation/merger in 1971. The Town had to accept the zoning for those areas intact. Dave Woods said the residents of York Harbor probably do not realize that they live in a business zone. He suggested sending a letter to the residents asking them for help changing it.

Uses in RES-1, RES-1B

Christine Grimando said 3,000 square feet might be a better structure cap than previously proposed at 2,500. These are non-residential uses in residential zones. Dave Woods said 15,000 square feet (roughly one-third acre, with an acre being 208 by 208.) could be designated for playing fields. The size doesn't have to be limited, as long as we can limit the lighting.

Uses in RES-2

Is RES-2 any different from the other RES zones? Christine Grimando didn't think they are, and there is no reason to have them different. Religious use should be added to BIS-2. Membership organizations should be taken out of the residential areas. Cemeteries, hospitals, and nursing homes are prohibited in York Beach, otherwise everything is allowed. Everything is allowed in GEN-1, GEN-2, and GEN-3. They are all treated the same. Route 1, Route 1-2, Route 1-3, Route 1-4, Route 1-5, and Route 1-6 are all the same.

Uses in Route 1

Permitting between Code Office and Planning Office is determined by the size of the project. 5,000 and below becomes a CEO permit, and above 5,000 is handled by Planning. Site Plan Regs for Route 1 commercial development would trigger planning board review in the case of essential services.

Depending on the use, Shoreland is our most permissive zone. She will discuss changes after she takes them to State.

Animal Hospital is going away. Hospitals, nursing homes, and medical facilities are not allowed in limited RES zones. Membership organizations are being taken out of limited RES, as it is more restrictive. Resource protection gets stricter. Stream protection is stricter.

New Business

- **Follow-up on Conservation Subdivision Meeting**

Torbert Macdonald spoke about the joint forum between the Planning Board, Conservation Commission, and Land Trust, at which initial concerns were voiced. The meeting lasted two hours, and a second meeting is coming up. Site Plans and Subd. Regs will be reviewed, as will conservation designs. He said we need a whole dedicated workshop. Christine Grimando said we could do that when the amendments are finished.

Old Business

None.

Other Business/Adjourn

Review of Findings of Fact for Police Station and Union Bluff Parking Lot

The board has comments or edits about the Findings of Fact for the Police Station and Union Bluff parking lot that have to be done before the board can take action on it. A meeting for that purpose is established for June 7, 2012.

The meeting ended at 10:25.