

York Planning Board
Thursday, November 12, 2009, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Planning Board Vice Chairman Lew Stowe introduced the board members and determined presence of quorum. Lew Stowe, Dave Woods, Todd Frederick, and alternates Torbert Macdonald and Tom Prince were present. Tom Manzi was absent. Torbert Macdonald voted in place of Tom Manzi. Tom Prince was asked to vote for Tom Manzi. Town Planner Christine Grimando represented Town Planning staff. Patience Horton took Minutes. This application meeting with public hearings lasted three 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

Bill Anderson requested a minor change for the Sparhawk subdivision. The plot plan showed a small wetland and buffer at the corner of Lot 4. When the building was under construction, "Mr. Welch" thought it wasn't a wetland, so the original soil scientist, Mike Cuomo reassessed the area again and found there is no wetland there, but rather a small impression. The intent is to grade it off and continue the buffer into the corner, creating a better entrance. Todd Frederick noted the letter signed by Maine Soil Scientist Mike Cuomo said the corner is not a wetland.

Motion: Todd Frederick moved to approve the field change as applied for this evening. Dave Woods seconded the motion. Vice Chairman Lew Stowe called for a voice vote, and the board passed the motion 5-0, all saying aye.

Minutes

Review and approve draft minutes

The **October 1, 2009**, Minutes, written by Steve Burns, were reviewed. Lew Stowe found small changes, which he noted on a copy and handed to Todd Frederick, Board Secretary.

The **October 22, 2009**, minutes were reviewed. Torbert Macdonald made several changes, including changing of appellation to Appalachian.

Motion: Torbert Macdonald moved to accept the minutes as corrected. Tom Prince seconded the motion, which passed with a show of hands, 5-0.

Application Reviews and Public Hearings

- **Trevor Foundation Replacement. 21 Morningside Drive. Map & Lot 0031-0038. Review of an application to replace a foundation in the Shoreland Zone.**

Christine Grimando described the application as an administrative change necessitated by a Shoreland Zoning change a year ago. This is a flat lot. The foundation is being moved back from the shoreland setback. The board is responsible to determine if it is possible to meet the shoreland setback better than it currently stands, as well as decide if an expansion is feasible in the building's replacement. If there has been an expansion, there cannot be prior expansion.

Project carpenter, Bob Ellis, described the building that has to be torn down. It leans to one side and is sinking. The foundation is not credible by code standards today. The seasonal house is above Elevation 12 and two feet below flood level.

Tom Prince asked if there is an expansion. Christine Grimando showed the volume calculations for existing and proposed square footage. Applicant Steven Trevor added the building would be moved five feet forward, away from the wetlands.

Motion: Torbert Macdonald moved we approve the Shoreland application for foundation replacement of the Trevor home at 21 Morningside Drive, including the plan notes by Christine Grimando. Todd Frederick seconded the motion, which passed, 5-0.

- **Munro/Perkins Foundation Replacement. 44 Bay Haven Road. Map & Lot 0020-0041. Review of an application to replace a foundation in the Shoreland Zone.**

Christine Grimando described this as the same type of foundation replacement. It is in the RES-6 base zone and limited base Shoreland Zone. Bruce Perkins owns the building. It is not proposed to move the building. It is a steep lot. She recommends plan notes concerning the survey showing that the foundation does not quite meet the setback. She asked if it could be scooted over toward Bay Haven.

Lew Stowe said the property includes Lots 10 and 11, and one lot is in the floodplain. Bill Ellis, also carpenter on the above foundation application, said animals have to be kept out. Foxes resided in the foundation last year.

Motion: Torbert Macdonald moved we approve the Shoreland Permit for moving the foundation for the Perkins Subdivision on Bay Haven Lane, subject to plan notes should Code Enforcement determine that the setback exists according to 8.3.2. Todd Frederick seconded the motion, which passed 5-0.

- **BAS Eldredge, LLC. 97 Raydon Road. Map & Lot 0091-0008-V; Continued Preliminary Site Plan Review/Route 1 Use Permit for a commercial showroom and storage space.**

Town Planner Christine Grimando said some of the neighbors are concerned about possible conflict of interest by planning board members. She has received correspondence about it. This was aimed at Dave Woods, who at the last hearing stated he is a regular customer at BAS Eldredge, but did not feel he has a conflict of interest based on that. Lew Stowe read the Planning Board's bylaws about conflict of interest, and the board members discussed it. If there is a conflict, the member should step aside. A board member should step aside, if the interest affects the impartiality of that board member. Also, a board member should step aside, if there is a family member involved, or if there is financial interest where someone could benefit economically or in some valuable way that improves the person's condition as a result of the passage or denial of the application.

Dave Woods cleared up a comment he had previously said about a forklift on the public roadway by saying you can drive a forklift, if you have a farm plate. Todd Frederick said he agrees with the definition of conflict of interest in the Planning Board Bylaws, and he did not see that David Woods has any conflict. Dave Woods said the Planning Board operates very transparently. He wanted this addressed and out of the way so it would not longer be an issue. Other members go into Eldredge and buy stuff like grass seed.

Tom Prince asked Dave Woods if his dealing with Eldredge is more significant than his dealings with other businesses. Dave Woods said his family business is large. He deals with Scott Eldredge regularly and quite a bit, but he does not get preferential treatment. Torbert Macdonald said in that case, according to the rules, there is no conflict of interest. Dave Woods said he holds himself above reproach in everything.

Motion: Torbert Macdonald moved we find Dave Woods is not in conflict of interest in the matter of BAS Eldredge. Todd Frederick seconded the motion, which passed 4-0. Dave Woods abstained from the vote.

The focus went to the application. Christine Grimando said the application was found complete for purpose of review at the last hearing. The application is now in the preliminary stage. The application must include a Route 1 use permit and must meet the Route 1 performance standards. On October 22, Tom Manzi, Tom Prince, Lew Stowe, and Christine Grimando, in a group of about 18 people, walked the site.

Project Engineer Geoff Aleva gave an overview of the property, pointing out the abutting businesses on Route 1, including Meadowbrook Plaza. Eldredge, or a subsidiary, also owns Ace Storage adjoining this annex property. There is a roadway behind Meadowbrook that drops into Donica Road. That road and intersection are not part of the plan for this property. Rather, a redesigned entrance/exit onto this property will allow trucks to turn in, headfirst, and then leave, going headfirst. Trucks will not be able to go left on Donica and will no longer have to back in.

Geoff Aleva pointed out the newly proposed metal lean-to, which is intended to reduce sound and give the abutters additional buffering. A sound study is planned. A sound engineer will give a reading in keeping with the Noise Ordinance. Lew Stowe said the

noise engineer would check the background sounds of Route 1, as well as the sound trucks make. Dave Woods asked the proximity of the lumber racks to the lean-to. Geoff Aleva said the lean-to construction will be a beam and column system and will be independent of the racks. Noise readings from the lumberyard are planned. Dave Woods said if the sound engineer finds it will not meet standards, the building should be done in wood.

Low Stowe recommended a fence at the entrance gate with a signing showing restricted delivery hours. Trucks should not come in unscheduled. They should not come before 7:00 A.M. or after 6:00 P.M., he suggested. Perhaps a stockade fence would help the visual. The vice chairman opened the **Public Hearing**.

Loretta Prescott asked the board members to consider the noise caused by large machinery and trucks. Trees will be nicked down and pavement added. There will be back-up beeps and loading and unloading. The change for Donica Road residents will be significant.

Sharon Decato of Donica Road asked the location of parking for people driving up or being shuttled up to the property. Geoff Aleva pointed to one parking space on one side, and two parking spaces on the side, by the entrance.

Mary Dervishian asked how the rain and snow would drain off the corrugated metal shed—toward residential yards? The neighbors should not have to listen to the noise, especially at 6:00 A.M. on a day off. The noise will include the sound of palettes and yellow dumpsters being dropped. It isn't fair to say she bought property that abuts a commercial zone. The commercial business moved in. She wants them to be good neighbors.

Nancy Fossa of 43 Donica Road said the debris would be in her back yard.

Art Fossa of Donica Road asked what a Storm Water Peer Review does. Christine Grimando described it as review by a third-party engineer who is independent of the applicant and the Town.

Art Fossa said the design of the noise study is important. He wants to know how and when the samplings will occur. He would like the possibility of bifurcation of the application considered. The window showroom is quite different than the lumberyard part. The nature of the footprints is different. Addition consideration to the 30-foot buffer zone is requested in terms of sound and visual. No matter how this works out, we are going to lose, he said.

Geoff Avela said the lean-to shed has a low slope roof that that pitches back toward the property line. It will not drain onto the abutting properties. The proposed buffer zone is 35 feet, where the minimum side buffer yard requirement is 20 feet. BAS Eldredge does not have control of the trucks (vendors) that come into that property. Geoff Avela said five comments came from the Peer Engineer. Minor changes were recommended. There

is one vendor, Brockway Smith, which comes in at 7:00 on Tuesdays and Thursdays. The new entrance will allow him to come in headfirst. Eldredge cannot impress him not to come earlier.

Lew Stowe proposed trees, possibly evergreens, and a fence to screen the metal building. Dave Woods said trees and fences don't mix. Snow and limbs fall on the fence. Lew Stowe called for the 40-foot buffer. Geoff Aleva showed the buffer landscaping with current and proposed trees. Evergreens, flowering shrubs, and deciduous trees will augment the current cropping. There will be 100 plants per 100 feet, where 70 per 100 are required. Todd Frederick asked of the color of the shed. Dark forest green.

The 35-foot trees located there now are above the top of the building height, said Geoff Aleva. Staggered, high plantings will be between the high canopy and the lower part of the building. Tom Prince said the fence is going to be a maintenance problem. It will deteriorate. There will have to be a maintenance plan. Lew Stowe said evergreens should be put in there against the wall.

Torbert Macdonald said there have to be attempts to mitigate sound, citing 17.7.2 of York Zoning Ordinances, including from the highway. That would call for a wooden fence 15-foot tall and a wall of evergreens. The deciduous trees will do nothing to help in the winter. The whole structure should be wood. That would be an opaque noise barrier. The applicant is responsible for the noise from Route 1 as an obligation. Solid wood and a wall of evergreens are optimal.

Motion: Dave Woods moved we don't require a fence. Todd Frederick seconded the motion. Lew Stowe asked for a voice vote. Tom Prince, Dave Woods, and Todd Frederick voted against the fence. Torbert Macdonald and Lew Stowe voted for the fence.

Motion: Lew Stowe moved to put in Evergreens as a buffer in front of the storage building going 10 to 15 feet down from it. The motion was not seconded.

In discussion, Dave Woods said the plan is not by a licensed landscape architect. He asked if evergreens or arborvitae would be best. The audience members called out: arborvitae.

Torbert Macdonald asked if it was time for taking motions, as if motions were some kind of official guidance. Lew Stowe withdrew his motion. Torbert Macdonald asked that the fence activity be null and void.

Lew Stowe said the recommendation about the gate would lead to a positive message to the neighbors. Geoff Aleva said he would talk to the vendor about the gate. Applicant Dan Remick said sometimes trucks arrive in the middle of the night. The alternative would be for them to drive around the neighborhood if one drove up to the gate and was unable to get in. Torbert Macdonald said the applicant knows the hours of operation will be controlled to the base of their ability, and the neighbors will react if the goodwill is violated.

Waiver Request: Geoff Avela had a waiver request for the buffer yard, in order to allow trucks to pull in forward. Christine Grimando said she spoke with DPW Director Dean Lessard, who was concerned about the sight distance at this place. He asked for the roadway to pass through the Ace Storage site, instead of onto Raydon Road. Geoff Avela responded that Donica Road is signed at 25 MPH with good visibility looking left and right. He described the sight distance as 10 times optimal sight distance at that speed limit. A very safe intersection is planned, because of the additional curve area. Christine Grimando asked for documentation about the turning radius onto and off the property. The trucks that back into the area now must pull forward, encroaching the buffer area. With the buffer change requested in this waiver, the truck no longer has to back down.

Motion: Dave Woods moved we approve the waiver to allow the turning expansion into the setback per 6.3.9. Todd Frederick seconded the motion, which passed 5-0.

Lew Stowe went to Christine Grimando's memo highlighting substantive issues including: 1) Multiple uses on a single lot. 2) Should there be two applications, or is the board reviewing both and making one decision for both? 3) In the buffer vs. setback definitions, buffer yards are about landscaping. Setbacks are on every lot. 4) With quality of life issues, a plan note will focus on landscaping language being tightened up. There are no violations of former plans, but those plans are less specific than they are now. They were smaller in the past and are more specific now. 5) Geoff Avela said the gravel path on Donica Road developed into a driveway for earlier delivery (coal, then oil). That area will be green and won't be used again.

Christine Grimando said, per the CEO, there are no code compliance issues. The site plan is not specific in some areas. Detailed landscaping should have been submitted for the Route 1 site, but there are no open issues. Tom Prince asked about permitted uses on the Eldredge property, as when kayaks were being sold there. Was that a use violation? Christine Grimando said there have been occasional issues with outdoor display, but everything has been in compliance.

Reasonable delivery hours are to be proposed at the next meeting, and there are other issues. She asked if the board is satisfied with screen issues. Torbert Macdonald answered that until the noise studies are in, those decisions have to be deferred. The BAS Eldredge hearing closed.

- **Patten Landscaping, 3 Emerald Land. Map & Lot 0079-0006-E. Plan Review and Wetland Permit. *The applicant has withdrawn the application.***
- **Union Bluff Function Hall, 4 Beach Street. Map & Lot 0024-0043. Amendment to On-Street Parking Spaces on a Previously Approved Site plan.**

Christine Grimando called this a proposal for revision to a previously approved site plan. There are four handicap parking spaces to turn into two regular, plus two handicap, spac-

es. They are on Union Bluff function hall property. The separation meets their handicap requirement of two spaces.

JoAnn Pryor of CLD Engineers said the function hall sits on the site of the old York Cinema building. The building has eight hotel suites, a 250-person function hall, and retail space. The applicant made a satellite parking lot on Ridge Road with 47 spaces. Four handicapped spaces were put on function hall property. In fact, the design of the building was changed to make way for the spaces. In the year since it has been open, the building has not required more than one handicapped place at any time. Mathematically, by ADA requirements, two parking spaces are required. That formula depends on how many spaces are provided. Tom Prince asked how four were determined in the beginning. She said it was felt the on-site handicapped parking would be better than handicap satellite parking. Dave Woods requested that, when Beach Street is repaved, the standard handicapped parking could be more prominently marked, so it can be seen.

Motion: Torbert Macdonald moved to approve the change in the Site Plan to reduce the amount of handicapped parking in front of the Union Bluff Function Hall from four to two. Dave Woods seconded the motion, which passed 5-0.

- **Union Bluff Hotel Grass Parking Lot, 20 Beach Street. Map & Lot 0024-0035. Revision to a Previously Approved Plan to add additional overflow parking.**

This application is for a grass parking lot for the Union Bluff's spillover parking. The grass will be kept, but the organization of the parking will be formalized. There are two waiver requests, one for setback. The other, for screening, is out of courtesy to the abutters who would be afraid of losing their ocean view, if the screening was with anything other than lower shrubs. Stormwater management is not an issue. The runoff would not change. The grass is pervious. The parking is seasonal. The lot will be graded minimally.

JoAnn Fryer said in the summertime, during peak times, there is a need for parking at the beach. People park in Union Bluff parking facilities, using up the spaces intended for guests. In the past, management has put cars in this area, but now asks for formal approval for parking. The grade will be lowered in the back. Shrubbery will mask lights.

Christine Grimando said, in a November 5 memo, the applicant would put in a stormwater management plan, which will be revised after two seasons of parking. It will determine changes in the grass or the impervious. It is a residential neighborhood, and a letter and a phone call to Planning from neighbors have expressed concern about losing the view. Nothing tall is going up. This is relieving the parking on Beach Street. Lew Stowe opened the **Public Hearing**.

Eleanor Hall, who said she is 84, spoke of concerns regarding parking and noisy congestion just outside her home. She does not want streetlights shining into her house. JoAnn

Fryer said the bushes would be three feet high, maybe two. The Vice Chairman closed the public hearing.

The entrance and exit will be from Freeman Street, but cars can drive out onto Seabury. Tom Prince asked how the parking spaces would be marked. Brent Merritt said the grass would be painted with line paint, as used for sports fields. The paint lasts about 2 weeks before it is mowed, and then it is painted again. The overflow lot is opened only when it is needed. A manager sees the regular lot is full. It can be controlled closed with a chain.

Motion: Todd Frederick moved to approve the application as submitted to the Union Bluff Hotel at 20 Beach Street. Dave Woods seconded the motion.

Torbert Macdonald added a **friendly amendment** that the plan submitted should have an estimation of the stormwater runoff. We also approve two waivers: Site Plan and Regulation §6.3.27 and §6.4.16, stormwater management plan, plus §6.4.28, demonstration of financial capacity.

Vote: The motion passed, 5-0. The Union Bluff hearing ended.

New Business

Todd Frederick asked for a note at the bottom of meeting agendas saying that the meetings will end at 10:30. Tom Prince said meetings could move more efficiently. Torbert Macdonald said some meetings have more controversy. Tom Prince said, when it is not controversial, why spend extra time on it? It should be moved along.

Old Business

There was no old business.

Other Business/Adjourn

The meeting adjourned at 10:30.