

York Planning Board
Thursday, March 8, 2007, 7:00 PM
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Glen MacWilliams began the meeting at 7:00 by introducing the Planning Board and staff. The quorum included Glen MacWilliams, Vice Chairman Tom Manzi, Barrie Munro, and Lee Corbin, whose status had become full member of the board. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting 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.

There were no minutes to review.

Public Hearing

Conduct a public hearing regarding proposed amendments to the Site Plan & Subdivision Regulations. This is the first of two public hearings on this matter.

Steve Burns gave an overview of the five different amendments. **Subdivision Phasing** requires all rural subdivisions to be phased. Phasing can occur in the growth area, but phasing is mandatory, though waive-able, in the rural area. Ten lots can be built per phase, and one phase can be built per year. With **Findings of Fact**, he continued, the planning office will provide an outline for the findings to the applicant, who will have to write and submit them. **Road Design Standards** comply with the Comp Plan. Smaller scale roads that can have hammerhead turnarounds will be built for subdivisions of nine or less lots. Such roads will reduce the amount of impervious surfaces. **Wildlife Standards**, the fourth proposed amendment, will require that applicants indicate the location of their properties on maps regarding un-fragmented habitat blocks. **Historic & Archeological Resources** distinguishes between the Historic District Commission and the Maine Historic Commission for research on architecture or archeology, respectively.

Glen MacWilliams opened the public hearing. No one came forward to speak, so the public hearing was closed. In board discussion, Lee Corbin suggested changes to the

language in several of the amendments. She recommended requiring applicants to submit both cluster and conventional designs for rural subdivisions. This led to a discussion about how strenuous, to a detrimental point, the board has made rural design.

Application Reviews and Public Hearings

- **Fazio/Woodbridge Square. 38 Woodbridge Road. Map & Lot: 0050-0063-B. Final review of Major Site Plan Review application to construct a new office building.**

James Lowery spoke on behalf of the Fazios. Since receiving preliminary approval last December, the applicant has worked with staff and made several changes, including the relocation of the drop-off point to a different part of the new building. He also had submitted a letter from the Fazio's bank, as well as draft Findings of Fact, submitted for staff review. James Lowery showed the plan for the front of the building, with a canopy, facing Woodbridge Road. Traffic driving into the property would divide up to the left or right for either the office building or the restaurant.

Glen MacWilliams opened and closed the public hearing. No one came forward to speak. Steve Burns went through a checklist from a memo he had sent to the applicant. One requirement, financial capacity, had been submitted in the form of a letter from the bank, but Glen MacWilliams said that the letter had to be more specific and must say that the applicant has the capacity to build the building. Steve Burns said that the actual letter of credit would come after the approval and before the permit. Utilities were another item on the checklist. Builder John Destefano pointed out the location of two underground lines that will bring gas, telephone, and electricity to the building. Glen MacWilliams asked John Destefano if the work would be done in phases. He answered that the work would be done all at once. James Lowery said he would be requesting a waiver of the high intensity soil survey. Plan notes will be changed as needed. Glen MacWilliams also asked that the plan notes be modified to include the various design professionals. Approval could be conditional to sign-off by town departments and the sewer district. Barrie Munro asked for the 6.3.5 impact statement. Glen MacWilliams told the applicant to return with the completed items including revised architectural elevations..

- **Scudiere Non-Conforming Lot. 4 Thistleberry Lane. Map & Lot: 0046-0053-G. Continued consideration of application to re-establish a formerly consolidated non-conforming lot.**

Applicant Paul Scudiere gave a historical perspective of Lots 4 and 5, which had been created in 1970. Lot 5 is non-conforming because it does not have road frontage. In 1992 the lots were conjoined by ordinance. The original developer had planned to build on both lots, but they did not sell. Paul Scudiere said he hopes to build on Lot 5, which is 27,000 square feet. A right-of-way to Lot 5 can be created across Lot 4. Paul Scudiere said that there is a four-year wait for the building permit for this property. He hopes to

receive approval and “start the clock.” No variances will be required. The lot is suitable for a three-bedroom home.

Glen MacWilliams opened the public hearing. Steve Burns read a letter from **Clinton and Elaine Bowden** for the record. They had bought their lot knowing that Lot 5 could not be built on. They are concerned about runoff and flooding of nearby basements. Steve Burns also read a letter from **Jennifer Lynch**, which indicated that Lot 5 does not have street frontage. She stated that the applicant should have to prove that Lot 5 is suitable. Glen MacWilliams said that suitability is determined by whether or not the land can be developed without variances. Paul Scudiere gave reasons why the lot was suitable: the lack of frontage access is taken care of by the easement; the house can fit with the existing septic system. Steve Burns said that the applicant would have to sell the other lot. The ordinance states that one owner cannot own both lots.

Motion Barrie Munro moved that the board require a clear survey of the two lots and produce an assessment that Lot 5 is suitable for a single family home. There was **no second to the motion at that time.**

Steve Burns suggested having a friendly amendment that includes utilities and other design features as part of the definition of suitability. Glen MacWilliams thought a survey of the land showing that it can be built on would determine suitability and that possibly granting the right-of-way would make it suitable.

Paul Scudiere said that he had done a thorough analysis of the runoff from Lot 5, and discovered that the lot is the victim of runoff and not the cause of it. He said that the problem had been corrected. Glen MacWilliams asked for certification about the drainage design. Steve Burns said that contours that had been added had caused runoff to drop off toward Jennifer Lynch’s property.

The applicant asked how the Planning Board process is different than what Code Enforcement would do. Glen MacWilliams answered that “suitability” cannot be determined by code enforcement. Lee Corbin said that the property could not be suitable, if it will affect the neighbors as a drainage issue. The Planning Board cannot determine the drainage issue, she added. Glen MacWilliams said that the board could request a drainage study. Lee Corbin answered that drainage should be part of the suitability study.

Motion [cont.] Glen MacWilliams restated the motion to require a survey of the two lots, including an assessment that Lot 5 is suitable for a single family home. Tom Manzi seconded the motion.

Vote The motion passed, 3-1, with Lee Corbin opposed.

- **Jefferd’s Tavern—First Parish Church & OYHS. 3 Lindsay Road. Map & Lot: 109-031. Preliminary site plan review of new education facility.**

Barrie Munro left the planning board panel for this discussion, because his wife is on the Board of Trustees for the Old York Historic Society.

Steve Burns described the proposed building as 5,200 square feet of museum space that requires site plan review because it is over 5000 square feet. Wetland fill for the parking lot is the showstopper, he said. There are other issues, as well.

Builder John Destefano introduced historic society Chairman Scott Stevens and landscape architect Terrance Parker. John Destefano showed a floor plan for the barn that will be moved to York from Eliot. Classrooms and exhibition rooms will be on the second floor. He showed the current parking lot with 36 spaces and room for two buses off Lindsay Road. He showed sidewalk and underground propane tank sites. The Vietnam memorial will stay in same place, but be elevated and have a stonewall around it.

Terrance Parker said the current plan keeps the majestic trees that are by the parking lot. A stockade fence will screen headlights from the neighboring homes. He described the plant materials around the buildings. Efforts will be made to remove invasive Japanese bamboo-like material growing there.

Architect Donna Lee Woods showed an elevation of the link between the barn and the tavern, which is hardly noticeable because of the dark glass, she said. She described the floor plan. Students on buses will have a separate entrance leading them directly upstairs, where there will be seventeenth-century style cooking and clothes-washing areas for students, as well as a classroom and gallery. The buildings will be “Jefferd’s Tavern brown”.

Ben Walden, of Attar Engineering, discussed parking. At an earlier public hearing, the preservation of two large and one small maple trees was important to abutters. The current parking configuration works around those trees. He talked about the wetland behind the tavern, which, he said was dredged at one time, is therefore manmade and, therefore, not a wetland. It can be crossed with a driveway. Steve Burns argued that the wetland may have been changed in some way because of somebody, but the whole regular wetland of which it is a part is a natural wetland district. To determine whether it has value, the applicant has to have it analyzed using the New Hampshire method. To the board, Steve Burns commented that the wetland was, “the biggest barrier they’ve got.”

Glen MacWilliams opened the public hearing. **Richard Cutts**, 12 Lindsay Road, said he is concerned about the parking lot design. There are two 18th century houses across from the parking lot, including his. Put in a parking lot means moving 10,000 square feet of vegetation. The new entrance requires cutting a 25-foot wide swath, creating an unobstructed view of cars and buses from the sidewalks and the residences on Lindsay Road. He handed around photos of tall trees, saying that is where the entrance will be.

He was also concerned about traffic hazards. Residents are already impacted by hospital noise, parking, and gridlock traffic during town events, like parades. Also tourists leave trash. Maybe the board could require buses to turn off engines. He asked for a traffic impact analysis to be conducted. A trolley or shuttle from another location might be better than adding 30-plus parking spaces.

Glen MacWilliams read a letter from **Robert Cutts**, who had grown up in one of the 18th century buildings nearby, he wrote. He is not in favor of the new entrance and parking area. It should be moved down Lindsay Road, closer to the entrance to the hospital.

No one else came forward. The chairman closed the public hearing.

Steve Burns suggested combining the preliminary and final approval in one step at the next hearing of the application. The review of the wetlands using the New Hampshire method is expected. Glen MacWilliams was concerned about the impacts on adjacent property. He thought alternate transportation from a school parking lot is a good idea.

Scott Sevens of the Old York Historical Society said that First Parish Church, which owns the subject property, wants the parking configuration as presented.

- **Union Bluff Function Hall Parking Lot Amendments. 416 Ridge Road. Map & Lot 0094-0084-A. Continued consideration of amendments to parking lot design.**

Nathan Alison represented CLD Engineers and was speaking in place of JoAnn Fryer. He had brought the site plan of the parking lot and an aerial photograph showing surrounding buildings. The proposed revisions included a six-foot fence barrier across the front of the parking area. A chain gate had been added across the driveway. He pointed out a light in the parking lot and showed the location of a sign for pickup and drop-off information, next to entrance driveway.

Glen MacWilliams opened the public hearing. **Scott Ireland** of 409 Ridge Road said he was also representing his neighboring parents. He asked for an eight-foot fence, instead of six. However, he would rather have six-foot arborvitaes, because they would grow. He asked if there had been a traffic study on Ridge Road or not, because he had heard it both ways at different planning board meetings. He said that the speed limit sign should go in a certain place to slow traffic down. Steve Burns says that Public Works had told him that the speed limit sign is in the correct place. Scott Ireland asked how often the parking lot would be used. He will call the police, if there is noise there at 3:00 A.M. He asked the board how they allowed the parking lot to begin without a design presented to the board.

He also said he wants to know what will happen with the value of his home because of the parking lot. Will it decrease? He wanted to be assured that he does not lose money.

Glen MacWilliams said the board could not deal with property evaluations. Scott Ireland would have to go to the Town Assessor, who might give an answer. Scott Ireland replied that he had asked the assessor, whose response was that until the lot is finished, he could not decide what the impact on the house would be.

Glen MacWilliams said that a traffic study is not required as part of this application. The applicant has the right to use the parking lot for the purpose it is intended. Replying about the parking lot's use, Brett Merritt said it could be used any day of the week, mostly in summer. He doesn't plan to use it overnight. Brett Merritt asked about landscaping. Which is better, a fence or arborvitae? He brought up Japanese Zelkova, a fast-growing deciduous tree of the Elm family, and he handed around a written profile of the plant. After discussion about the extent to which Arborvitae is part of the local deer diet, Scott Ireland decided the Arborvitae would be best to use.

Motion Tom Manzi moved to accept the provision for change in landscaping to include six-foot tall Arborvitaes spaced five-feet apart from the center in lieu of the fence. Barrie Munro seconded the motion, which passed, 4-0.

- **Ledgewood Park (Formerly J&B LLC). 764 U.S. Route One. Map & Lot: 0094-0016-V. Continued consideration of application for a Route One Use Permit.**

Walter Woods began his presentation by discussing outdoor lighting for the proposed building. A note plan will indicate that the exterior lighting will be a maximum of five feet high and face the structure, as indicated in the deed. The Findings of Facts had been submitted, and there were minor changes. He showed a sample of the vinyl siding for the clapboards and presented photos of homes of the same material. He explained that, due to the window placement, there would be minimal joints along the clapboards. He discussed the grading plan, a change in the landscaping plan, and brought up the shoreland permit. He showed the placement of the changed department-head signature-blocks on the plan. The septic design has not been signed by code enforcement. The performance guarantee is in Plan Note 9A.

The chairman opened and closed the public hearing. No one came forward to speak. Walter Wood had asked for a tunnel permit under U.S. Route 1, which was pending. The septic design is a precedent condition to the sight plan approval. The plan notes were discussed.

Motion Tom Manzi moved to approve the application and Findings of Fact as amended, presented, and discussed at this evening's meeting. Lee Corbin seconded the motion, which passed, 4-0.

- **Highland Farm Phase 2. 1 North Meadow Lane, and 250 Cider Hill Road.**
Map & Lot: 0090-0029-A and 0090-0030. Continued consideration of preliminary review of a major subdivision.

Engineer Steve Haight, representing applicant Moon River Development, said he was there to report on the status of the application, answer questions, and get a postponement until April. Since the last meeting, the applicant has been talking with the Kittery Water District and the Trust for Public Lands. There were no conclusions from these discussions at the time. Plans to begin the environmental study had been set for March, but the weather had been bad, so it will begin in April.

Attorney Jim Katsiaficas said that there would have to be a redesign based on the outcome with Kittery Water District. Until it is settled, the applicant cannot bring in a plan with the redesign.

Glen MacWilliams opened the public hearing. No one came forward to speak. The hearing was closed.

Motion Barrie Munro moved to extend the review into April, as requested by the applicant. Tom Manzi seconded the motion, which passed, 4-0.

Other Business/Adjourn

In other business, Steve Burns said that the **Davis Drive Cul-de-sac** applicant had prepared plans of the cul-de-sac showing what is built. The applicant has to produce a signed plan that shows not only what is there, but also that he has met the zoning standard. The standard says the road has to be 18 feet wide with 18 inches of sub-strait. There is nothing, so far, about a compaction test. Glen MacWilliams said that the thickness will not meet the requirements, and that the cul-de-sac does not comply. There is no basis for approval.

Motion Barrie Munro moved that the board would review the plans for the Davis Drive Cul-de-sac when the recommendations of the certified engineer have been received. Tom Manzi seconded the motion, which passed, 4-0.

In other business, Barrie Munro talked about the matter of unresolved violations along **Route 1**. He referred to a previous meeting at which Steve Burns had presented a document describing several of the violations previously identified and discussed. The document was dated September 20th, 2006. At that meeting, or a subsequent meeting, the Chairman Glen MacWilliams stated that he had been contacted by one of the parties previously identified as possibly being in violation and had agreed that the Board should provide an opportunity for these parties to present their side of the case to the Planning Board. This was not done. Barrie Munro went on to state that he had recently been told that the CEO's office was under the understanding that the Planning Board did not want

any further action taken. Mr. Munro challenged this, stating that in his recollection, the Planning Board had not taken any action other than to agree to the Chair's proposal to invite formal comment at a future Planning Board meeting.

In the ensuing discussion, the Glen MacWilliams and Steve Burns reiterated that the Board does not have the right or responsibility for enforcement. This is the CEO department's responsibility. The Board, on the other hand, has the right to request/invite the CEO and the Board of Selectmen to discuss the Town's current policy with respect to the enforcement of Route 1 permit and ordinance enforcement. It was agreed that the Town Planner would invite Tim DeCoteau to attend a Planning Board planning meeting for the purpose of discussing the CEO policy for enforcement. Barrie Munro also suggested that it might be well if Town Manager, Mr. Yandow attended that session. Steve Burns said that time was coming near for the bi-annual, joint meeting with the Board of Selectmen and that enforcement policy could be part of this agenda.

The board signed mylars for Ledgewood Park.

The meeting adjourned at 11:10.