

**TOWN OF YORK PLANNING BOARD
THURSDAY, APRIL 13, 2006, 7:00 PM
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Chairman Barrie Munro began the meeting at 7:00 by introducing the board and the staff. Everyone was present: Barrie Munro, Vice Chairman Glen MacWilliams, Glenn Farrell, Richard Smith, Tom Manzi, and alternate Lee Corbin. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting was televised.

The agenda order was shifted to accommodate the engineer's delayed arrival for the Bell Marsh Road hearing.

Public Input Open to the public to address any issue other than issues scheduled for public hearings on this agenda.

The Public Input session was opened and closed. No one came forward to speak.

Requests for Field Changes Decide on requests from previously approved applications.

Town Planner Steve Burns said there were no requests.

Application Reviews and Public Hearings

Cape Neddick Village 1132 U.S. Route One. Map/Lot: 0022-0013-A & 0022-0013-C. Request for an extension of approval granted in May 2005.

Chairman Barrie Munro said that the applicant had requested the Planning Board to provide a one-year extension for this project. Ordinance 18.1.4.11 requires that substantive work begins within the end of the first year, or the permit will lapse. Glen MacWilliams noted that the time period began May 26, 2005.

Barrie Munro opened the public hearing and closed it when no one came forward to speak.

Motion Glen MacWilliams moved to grant the extension of time. Richard Smith seconded the motion.

In discussion, Tom Manzi pointed out the downside of the time the excavated, semi-finished landscaping will be vulnerable to erosion, in consideration for the abutters downstream. Steve Burns said Code Enforcement could evaluate the appropriate maintenance of the property. With Glen MacWilliams and Richard Smith's agreement, the motion was amended to accommodate Tom Manzi's concern.

Motion Glen MacWilliams moved to grant the extension of time until May 26, 2007 and to request Code Enforcement to qualify possible erosion and sedimentation issues. Richard Smith seconded the motion, which passed, 5-0.

Bell Marsh Road Reconstruction—Town of York. Consideration of road reconstruction in the Watershed Protection Overlay District.

This hearing was deferred until later in the meeting. See Page 6.

Blue Canoe, 454 U.S. Route One. Map/Lot: 0048-0023. Amend Route One Use Permit for outside display.

Barrie Munroe explained the application serves as an amendment to a Route 1 Use Permit for outside display and is subject to extensive ordinances as to when and under what circumstances a business may engage in such displays.

The chairman opened the public hearing. Andy Sturgeon, the architect for the Blue Canoe application, said that he had been before the board on October 13, 2005, but had not been prepared to ask for the outdoor display. He showed a drawing of the front elevation of the building with a bump out where the subject ice and propane units will be displayed.

The chairman closed the public hearing. He commented that the elevations were among the best he had ever received, and he planned to use them as example for people making similar applications in the future. Glen MacWilliams talked about screening, which was less suitable, but acceptable, on the north side, where vegetative screening had been provided as adequate buffer a number of years ago. Glenn Farrell recommended sinking barricade pipes into the ground to prevent anyone from driving into the propane tanks from the handicapped parking area. Andy Sturgeon agreed to the addition of the pipes. Steve Burns said that the applicant had received the fire chief's approval. An as built would not be necessary.

Motion Glenn Farrell moved to approve the modification to the Blue Canoe building subject to the precedent conditions of fire chief approval and the addition of the barrier by the propane tank area. Tom Manzi seconded the motion, which passed, 5-0.

Rivergreen Bank, 659 & 647 U.S. Route One. Map/Lot 0091-0008-Y & 0091-0008-W. Application for a Route One Use Permit for new bank in the former Dexter Shoe retail building, with an interconnection to the Meadowbrook Plaza.

Engineer Jim Fisher of Northeast Civil Solutions (Scarborough) said that the Rivergreen Bank conversion would be less controversial than the last application for the site (Dunkin Donuts). He orientated the bank branch on a map. The building would be relatively unchanged, except for the addition of drive-up teller windows. He pointed out how the driveway easement to the Meadowbrook Plaza site was being moved. He showed the location of Little River. This property is four feet above that floodplain. He discussed

the CMP easement out there. It will not be used by CMP because the proximity of power lines to the Little River would constitute a hazard. He showed the location of a berm between the front parking lot and Route 1, which will protect headlights from shining into the road on late winter afternoons. He pointed out the relatively new septic system in the back. If the public sewer system comes to that area, Rivergreen will hook up to it, he said.

Architect Dave Curran discussed the architectural features. The structure will be maintained, and a new exterior will be applied. It will have pre-stained, cedar shingles (gray) for siding. The roofline will be broken up with dormers. There will be a new roof and new windows. There will be a vestibule in front, a drive-up at one end, and two open-framed cupolas on the roof, one containing the bank's logo. The drive-up canopy will have a lightweight styrofoam surface with stucco finish.

Glen MacWilliams said that the Board wants to know the exact colors ahead of time and requests sample colors. Dave Curran replied the building would be coastal gray. Barrie Munro said that it is important for the Board to understand what the appearance will be from Route 1. Tom Manzi commented that the facelift is "classy," but the drive-up canopy looks like those of early gas stations. Dave Curran described cutbacks in the building materials that will add shadow and lessen the harshness. Glen MacWilliams felt that the canopy did not fit the style of the building. Dave Curran answered that with it, he was trying to lessen the long look of the current roof, and he did not want to add more to the roof. The color of the canopy will be off-white or beige to compliment the shingles.

Chairman Barrie Munro opened and closed the public hearing. No one came forward.

Motion Glen MacWilliams moved to accept the application as complete for purposes of review. Glenn Farrell seconded the motion, which passed, 5-0.

Barrie Munro referred to the **Town of York Zoning Ordinance Article 18.1.4.2, Permit Issued by the Planning Board**, and began to go down the requirements. **Items a., b., c, d., and e.** were fine. In **b.**, Glen MacWilliams double-checked that all the owners had authorized the project, and Steve Burns answered yes. In **f., concerning Locus Map and Scale**, Barrie Munro asked if a waiver was needed for the scale. Glen MacWilliams looked at the plans and answered that what was provided was good. **Items g. and h.** were okay. Barrie Munro asked if a waiver was requested for **i., Topographical Features including Trees over 10" in Diameter**, and Steve Burns answered that yes, a waiver was requested because the applicant did not want to have to show the forested area at the back of the lot on the plan.

In **Item j., Location of Existing "Built" Features on the Property**, Richard Smith said that the showing of the approximate location of the septic was a problem. When Dunkin Donuts applied, one of the denials was because the septic was not on the plan. Steve Burns agreed that the location of the tank should be requested. Glen MacWilliams asked about there being any additional tenants. Steve Burns said that the extra space was being proposed as office space.

In **l., Sewage Disposal Service**, Steve Burns said that the applicant had a waiver request and had shown approximate location of the leech field. Jim Fisher said that the HHE-200 form is part of the packet, and it is informative. The exact location of the septic is not known, though, because he was not there to see it getting covered in the first place. But the slight mound on top of it makes the general location obvious but the precise location only approximate. Barrie Munro said that the board will want acknowledgement of the HHE-200 document on the as built plan. The board also wants to have an appraisal of the capacity of the system, he said.

Going on with Article 18.1.4.2, Glen MacWilliams asked that in **k., Location and Dimensions of all Proposed Development**, there would be a drawing showing changes and proposed development. In **m., Landscaping and Buffering**, there was discussion about new plantings closing off the entrance from Donica Road into the bank property. In **p., Signage** will be Code Enforcement's responsibility. In **q., Construction Drawings**, Tom Manzi commented that the building will not be a log cabin any longer. Glenn Farrell said that he would like to see the steel tulip logo before it goes up into the frame of the cupola. Glen MacWilliams asked whether or not the tulip would be illuminated and how other parts of the building would be illuminated, as well. Jim Fisher answered that there will lighting around the building for security. Dave Curran said that the prototype tulip logo was currently under construction for the cupola on the new Rivergreen Bank building in Saco. A business card with a detail of the tulip was handed around. Glen MacWilliams commented that the tulip is heart-shaped and that the flower logo would be considered signage and not be allowed on the building roof. Steve Burns said that approval of the logo should be left to Code Enforcement, because it is a sign, which is in their jurisdiction. Lee Corbin said she wanted to see a color rendition of the building with the logo in place to get an idea of the visual from Route 1 would be. Barrie Munro said that the canopy and the flower were the two important issues. Glenn Farrell said that he had no problem, except with the flower logo.

Tom Manzi asked about the alarm on the building and learned that alarm bells are not rigged outside anymore, but are connected directly to alarm companies or police. Barrie Munro asked if the safety people—ambulance, fire, police, and public works—had submitted approvals. Jim Fisher said that they had approval from fire. York Fire Chief Ballentine had asked for an outside key box. Jim Fisher was not sure about police and ambulance service. Barrie Munro said that Maine DOT had agreed to the driveway radius being widened for better access in and out onto Route 1. Barrie Munro asked Steve Burns about precedents for approval. Steve Burns said the police signoff had been received. There was a written response from the ambulance corporation. A traffic study had been submitted. Lee Corbin asked if there was an easement agreement between Meadowbrook and Rivergreen Bank. Jim Fisher answered yes. Barrie brought up the applicant's answer to **18.4.1.2 v., the Impact on the Delivery of Town Services**. The applicant had replied that the project would have no impact on Town Services. Barrie Munro said that he wanted to see a better response to the requirement. Steve Burns said that the applicant was just changing the use on an initial commercial building, so the impact should be the same. Barrie Munro said that the requirement was to convey the

thought about whether the impact is negative or positive. He agreed to accept **Item v.**, as written. **Item w.** was also acceptable, and **Item x.** was covered in the plan notes.

Motion Glenn Farrell moved to waive the requirement to show trees over 10” in diameter, because the applicant is not going to do any work back where the trees are located. Tom Manzi seconded the motion, which passed, 5-0.

Glen MacWilliams began discussing the possible easement from the bank property, across Meadowbrook Plaza, to the sewer. Jim Fisher said that instead, the connection to the sewer line would go through the public right-of-way along Route 1. It is a longer path, but it is acceptable. Steve Burns said that the sewer main that the applicant would tie into is up by Radon Road, 750 feet away, as the crow flies, and much longer along the Route 1 right-of-way. He suggested allowing the applicant to reconstruct the septic field, if it fails. The applicant had agreed that if the sewer comes by their property, they would hook into it. Glenn Farrell said that there should be the easement, anyway, and the applicant should get the easement now.

Motion Glenn Farrell moved to approve the waiver request to keep the building on septic and not require sewer, with the condition that it connects to the sewer main, should the septic fail. Richard Smith seconded the motion.

Friendly Amendment Barrie Munro made the friendly amendment that the applicant should connect into the sewer if at any time it comes down Route 1, which was agreed to by Glenn Farrell and Richard Smith and added to the motion.

Vote The motion passed, 5-0.

Barrie Munro asked the board what they wanted to do about the logo in the cupola. He said that if it is a sign, the matter should be deferred to Code Enforcement. Glenn Farrell said that he agreed with Steve Burns, that Code Enforcement can decide if it is a sign or not. Glen MacWilliams also said that he did not want to see signage on the cupola, and the decision should not be left to Code Enforcement. Barrie Munro agreed that signage is not in the purview of the Planning Board to permit. Glenn Farrell said that at worst, the applicant would have a cupola frame with nothing in it.

Barrie Munro said the board should not decide on the color. Steve Burns said that color requirements were removed some time ago. Dave Curran showed the color scheme for the building, adding that he hoped for the tulip to be orange, but added that it could be white or some other color. Barrie Munro explained that according to 16.2.2.5, signs shall not be above the eye lines, and Code Enforcement might deem that the tulip is a sign.

Motion Glen MacWilliams moved to approve the plan, with the exception that nothing could go inside the cupola until more information is available about whether the logo in the cupola is considered signage. The colors that will be used are the colors that were presented during the meeting, gray with beige trim. Tom Manzi seconded the motion, which passed, 5-0.

Motion Glen MacWilliams moved that the two precedent conditions are the indication of the location of the septic tank and the added reference of HHE200 on the plan. The motion passed, 5-0.

Bell Marsh Road Reconstruction—Town of York. Consideration of road reconstruction in the Watershed Protection Overlay District.

Project engineer JoAnn Fryer described the reconstruction of Bell Marsh Road, located off Cider Hill Road. Over a period of seven to ten years, 6,750 feet of road will be improved, at a maximum of 1,000 feet per year, in accordance with crew availability and funding. The improvements will include paving and a guardrail. **Chairman Barrie Munro opened the Public Hearing.**

Doreen McGillis, the Executive Director of the York Land Trust, described the detrimental impact the upgrade will have on area turtles, including the Spotted Turtle. On the map, she showed the Bell Marsh area, which is a primary turtle habitat. Of the 38 most recent turtle sightings, seven have been road mortalities. If 2% of the turtles were lost per year, she continued, it would only take two decades before all the turtles are gone. They are drawn to roads for laying eggs. With road improvements, there will be more development. The area will no longer be rural and remote. The Mount Agamenticus to the Sea Incentive has spent millions of dollars protecting land, she continued. That has included purchasing 180 acres in South Berwick to prevent development. She encouraged the Planning Board not to reconstruct Bell Marsh Road.

Ala Reid of 496 York Street said she echoes what Doreen McGillis had said. She supports Robin Stanley's position of conservation. She also hates to see an arm of government working against what the citizens have spoken about so many times. She asked the Planning Board to work on the side of the citizens.

Frank Taylor said that he has worked on the turtle project with Robin Stanley since 2002, counting the occurrences of turtles in the Mount Agamenticus area. He has reservations about paving Bell Marsh Road and other roads in that area where a great population of turtles resides. These turtles do not reach their reproductive maturity until they are 15 years old, and then it takes seven or eight years for them to replace themselves. By losing 2% a year, they are wiped out in a couple of decades. The Town has to safeguard the natural heritage with which it is endowed. The Bell Marsh region is the most bio-diversified area in the entire state, he concluded.

Carol Donnelly of the York River Associate said that paved roads and impervious surfaces are major contributors to source pollution and unidentified non-point source pollution. Toxic substances will run off the Bell Marsh Road directly into the marsh and then proceed to travel into Smelt Brook and the York River. She asked that the Bell Marsh wetland, Smelt Brook and York River not be degraded further. The cumulative effect of paving Bell Marsh Road will have an effect on the entire York region and its natural resources.

Helen Weinbaum said that the citizens have changed their feelings about sprawl and development that might occur far from the center of York, as the Bell Marsh area is. Those changed feelings have come about after the citizens voted to pave Bell Marsh Road. Paving would increase development, which would be a short-term gain that will cost greatly in the long run. A person may not be passionate about turtles, but think about Mount Agamenticus to the Sea having huge, un-fragmented blocks of forest, of which Bell Marsh is a part. It is a habitat for other creatures besides turtles. Making a paved speedway through there with pollution and traffic will affect the other species, as well. The cost benefit will come in the end—from *not* having paved the road.

Joey Donnelly said that the Agamenticus area has the largest un-fragmented forest on the East coast from Acadia all the way to New Jersey. If the area is fragmented, it will change the natural habitat. Over the line, in South Berwick, traffic is so bottlenecked back from Route 236, that people will use the paved Bell Marsh Road to head south. If it is paved, it will immediately get traffic that is going through to South Berwick.

Karen McElmurry, Director of the Center for Wildlife, said that she sees many turtles in that area, and is afraid cars will hit them. She stops and moves them off the road, herself. Paving Bell Marsh Road will cause larger mortality and will be devastating to the species. That would be a treasure that will be lost.

Matthew Ronca spoke last. He said his priority is his family, and his family lives on Bell Marsh Road. He worries that the ambulance cannot get up there when conditions are poor. He said he was not being insensitive to everyone who spoke, but he wants a road that is maintained better than Bell Marsh Road is now.

With no one else to speak, **Chairman Barrie Munro closed the public hearing.** He asked Steve Burns about the court case over the Town's maintenance and upgrading of the Bell Marsh Road. **Bill Gray**, the director of Public Works answered. He had been told that the town is required to upgrade the road and fund the upgrade with an allocation of \$25 thousand a year.

Barrie Munro suggested that the board provide a motion requesting that he, as chairman, seek direction about the nature of improvements that should be made with regard to design and construction, width, surface material, and maintenance, not only to satisfy the Court, but also in consideration of the people living on the road and the other people who deliberated that evening. Ultimately the Planning Board would get formal guidance from the Board of Selectmen, he said.

Lee Corbin supported his idea. She said that the initial court case should be examined before making decisions. She did not know the purpose of paving Bell Marsh Road, which is a highly sensitive area, and she was not sure if impervious surfaces would enhance the area. Barrie Munro said that he would draft a letter to give to the Board of Selectmen that would be available when this set of minutes is available to go with it.

Motion Glenn Farrell moved to ask Steve Burns to get a copy of the legal decision, and for Barrie Munro to go ahead and draft the letter to the Board of Selectmen. Glen MacWilliams seconded the motion.

In discussion, **Bill Bray** said that \$55,000 would cover the cost of paving the road, but that figure does not include the basic work. Richard Smith asked Bill Bray how many times, and over how many years, the road could be graded with that amount of money. Bill Bray explained that the Bell Marsh Road is the most difficult road in the town to maintain. It requires the highest level of maintenance, especially during the spring thaw. As time goes on, people driving the road at 35 mph cause the road to lose shape. Bill Bray further described how the Bartlett Road was ready to be paved, but was not paved. Traffic then reduced it to a state where it could not be paved at all. He said it would be best to get rid of all the gravel roads and use less of the grader. Gravel roads cause maintenance problems that won't go away. Tom Manzi answered that the submittal is technical and incomplete, because other things are not being taken into account.

Vote The Chairman called the vote to draft a letter to the Selectmen. It passed, 5-0.

Barrie Munro made the final comment. The Town has to face the reality that it is running out of what remains. Sprawl is causing more traffic on Route 91 and other roads. It will take vision to best approach this, and there are economic considerations to take into account.

There was a short break.

Clay Hill Farm Subdivision. 220 Clay Hill Road. Map/Lot 0099-0070. Application for a minor subdivision.

Chairman Barrie Munro opened the public hearing. Engineer Steve Haight, of Appledore Engineering, described the Clay Hill Farm property as 27 acres to be broken into four residential lots of 3 ½ to 5 acres each, leaving ten acres for the Clay Hill Tavern restaurant. The name for the new road will be Tavern Road. He has met with Public Works, Police, and Fire, who have given him positive recommendations. At this meeting, he would be asking the Planning Board for a waiver to make Tavern Road gravel-based and unpaved. The intersection with Marsh Brook Road has to be cleared of shrubbery, and an abutter is concerned about paving a section by the intersection. The cost of building the road will be at the applicant's expense.

Abutter Dave Currier said that he has property on three sides of the Clay Hill Farm. His concern was in regard to drainage coming off the farm and then across his property. He is said he was confident an agreeable solution had already been reached, and that the problem will be taken care of by the applicant.

The chairman closed the public hearing. He asked the board members if they felt the application was complete for purposes of review. Glenn Farrell, Glen MacWilliams, and Richard Smith answered that they felt it was. Barrie Munro said that the board can indi-

cate what might be missing from the application, and the preliminary and the final reviews can both be handled at one time. Steve Burns said that the high intensity soil survey and the LPI certification for test pits had been received.

Motion Glen MacWilliams moved to accept the application as complete for purposes of review. Glenn Farrell seconded the motion, which passed, 5-0.

Steve Haight said that Code Enforcement had clarified and adjusted some substantive issued, but the lots had not been changed. Barrie Munro asked about the sprinkler system and fire safety, specifically asking where the water comes from. Glenn Farrell answered, cistern tanks. This led to a discussion of the sprinkler system, followed by a discussion of the protective radius for each well. They also talked about tree clearing. The amount of proposed clearing was shown on the plan. Wetland crossing has been prevented, Steve Haight also explained. Barrie Munro suggested adding a note regarding the clearing of wood from the wetland for personal firewood. Glen MacWilliams asked about the test pits on the plan. All test pits are shown, but several are unused, explained Steve Haight.

Motion Glenn Farrell moved to waive 9.5.9, Road Paving on Tavern Road, based on the fact that two lots are sharing the road.

The right to pass and re-pass was discussed, as was maintenance of the private road. There will be no formal association of the neighborhood. Glen MacWilliams expressed concern about the maintenance of the road. Barrie Munro said that the two lots on it will maintain the road, and it will be so stated in a plan note. Glen MacWilliams said that the board has the right to know exactly who will maintain it. The applicant said it would provide an agreement. Lee Corbin asked why the road has to be so straight, and the answer was that the road follows a ridge. She also asked for corrections on Sheets 7, 8, and 10, which she was told would be made.

Vote The motion to waive the road-paving requirement passed, 4-1. Glen MacWilliams voted against the motion.

Tom Manzi returned to the fire safety issue, saying that if electricity is vulnerable to fires, where does the power come from to pump water for the sprinkler after the fire has knocked out the electricity. He suggested using a retention pond to protect neighbors and individual residences, instead, which was dashed down by other board members, who could cite past experiences with failures in the maintenance of water levels in retention pond systems. Glenn Farrell said that when a pump is needed, a generator is on hand. Steve Haight said that it is a code enforcement issue, and Steve Burns said that the fire chief or code officer should explain it. He suggested inviting the Chief to the upcoming meeting for an explanation of how the sprinkler system works.

Motion Glenn Farrell moved for a waiver of 6.3.3.8.4, identification of trees 24" in diameter, or larger. Richard Smith seconded the motion.

In discussion, Glen MacWilliams said that board should want to have the 24” trees identified. Barrie Munro said that it was not necessary, in that the trees do not establish a hazard.

Vote The motion passed, 4-1. Glen MacWilliams voted against the motion.

Underground utilities were discussed. Steve Haight said that a waiver had not been requested, so the utilities will therefore all be underground. Steve Burns said that road maintenance, talking to the Chief about the sprinkler, and professional certification were still outstanding. He suggested having the design engineer certify the plan. That could be done, because it is a small project, which seemed agreeable to the board. Barrie Munro added that as long as the plans are complete and in order, at the next meeting, May 11, 2006, the board can approve the application.

Other Business

In other business, Barrie Munro said the Board of Appeals had denied Passaconaway by the Sea’s request to have the Board of Appeals take jurisdiction over the Selectmen’s decision, based on the approach that the Planning Board erred in not taking the Passaconaway plan and accepting it as complete for review. Hopefully, he continued, the application will be deferred away from the Planning Board until the Supreme Court can make a decision. It would be moot, if it came to the Planning Board at this point. Steve Burns said that it would have to be denied, because there is no sewer. Barrie Munro recommended that the Planning Board leave it alone until the Selectmen’s position is decided. Glen MacWilliams suggested forwarding the Appeals Board members the Memo to The Planning Board, dated April 13, 2006, From Steve Burns for their consideration. Steve Burns added that the applicant has hopes the application will come before the Planning Board lined up on the old codes.

Motion Glen MacWilliams moved that, under the Planning Board’s recommendation, Barrie Munro ask the Board of Appeals to table the decision on the administrative appeal of the Planning Board’s decision until the courts have resolved the appeal of the Selectmen’s decision about the sewer main extension. The time limit should be within 30 days of the court’s decision. Lee Corbin seconded the motion, which passed 5-0.

In other business, Steve Burns said that York Beach parking information had been received from Ellis-Short Sands Park Trustees’ Chairman William H. Burnham. Steve Burns said that the board members should keep and refer to the information for the time when it will be needed again. **In other business**, Ken Wood of Attar Engineer had sent a letter stating that all the precedent condition had been satisfied for York Storage Solution.

Minutes. Review and approve draft minutes. The March 23, 2006 minutes were reviewed. **Motion** Glen MacWilliams moved to approve the minutes as written. Lee Corbin seconded the motion, which passed, 5-0. The meeting adjourned at 10:40.