

**YORK PLANNING BOARD THURSDAY, AUGUST 9, 2001
GRANT HOUSE**

Present at the meeting were Al Bibb, Chairman, Dick Arnold, Barrie Munro, Glenn Farrell, Torbert Macdonald, Jr., and alternate Dan Remick. Representing staff was Town Planner, Steve Burns. Patience Horton was the recording secretary.

Mr. Bibb asked Mr. Arnold to vote in Dave Marshall's absence. The meeting was brought to order at 7:00 P.M.

Minutes of the July 26, 2001 Planning Board meeting were read and approved unanimously (4-0).

The First Parish Church Site Plan, Map 49 Lot 55 public hearing for a minor site plan to expand the library building were discussed first. Because of personal reasons, Mr. Farrell and Mr. Bibb excused themselves from the discussion and the voting. Mr. Bibb asked Mr. Munro to conduct the meeting for this agenda item.

Patrick Stevens spoke on behalf of the First Parish Church, stating that the new Town library would be occupied in early November. At that time, the Parish will move its administrative offices into the existing library. A 19' x 15'3" addition to the rear of the first floor is expected to increase the safety of the building's entrance and egress by increasing the number of doorways. At the same time, the entrance will be accessible for those with disabilities. He believed the project would maintain the historic characteristics of the building by deliberately altering the materials used for the addition, making it obviously new. He showed a site plan with the addition, which included creation of a handicapped parking space. He showed how replacing the existing water line would allow the building to be sprinkled.

Mr. Munro opened Board discussion. Town Planner Steve Burns stated that the application was complete. Mr. Bibb then opened public hearing, but no one chose to speak to the matter, and the public hearing was closed. Returning to panel discussion, Mr. Burns requested that some loose ends be tied regarding the Findings of Facts and waiver requests. He said that the size of this addition just tipped the square footage over 5,000 feet by 50 feet. He required a survey of the library lot. Preliminary and final waivers about drainage were still incomplete. He recommended passing the requested waivers A-E. Mr. MacDonald moved to pass waivers A-E, which Dick Arnold seconded. The motion passed with a 3-0 vote, with Mr. Arnold, Munro, and MacDonald voting unanimously.

The need to increase the parking because of the changed usage of the old library building was discussed. Mr. Burns said that though there was a need to enhance the egress, the changed use of the building would not change the intensity of the traffic and parking need. Mr. MacDonald said there most likely would be less of a need for parking when the library transfers to the church. He moved to waive the requirement for additional parking, which Mr. Arnold seconded. They voted 3-0, passing the motion. Mr. Burns brought up the Certificate of Appropriateness, with the old library building being in the Historic District of the Town. Mr. Arnold, who happens to be the Chairman of the Historic District Committee, instructed Mr. Stevens to submit an application seven days before the Committee's meeting, and it would be heard. They will recommend necessary changes.

Mr. Stevens acknowledged the First Parish's commitment to meeting erosion protection requirements. He said the Church was in compliance with the August 4, 2001 letter from the Fire Chief, requesting full sprinkler protection. He said they were in the process of connecting to a hydrant on Organug Road to facilitate this project. He said that the 5050 sq. ft. figure is incorrect, and that the final number is 6699 sq. ft. Mr. Burns said that the plan would have to be stamped and signed by a certified engineer. Mr. Bibb recommended that the Board accept the application. Mr. MacDonald moved that the application be approved conditionally with the proper handling of mentioned items. Mr. Arnold seconded the motion. There was no further discussion. They voted unanimously, 3-0, and went to the next item, for which Mr. Bibb and Mr. Farrell returned to the Board.

Hickory Meadows Subdivision. Map 90Lots 14F & 17 (Board to make decision on the final application for a six-lot subdivision), Mr. Burns introduced the matter, reminding everyone that the meeting being conducted for this matter was a work session, and not a public hearing, that it would be inappropriate for applicants or abutters to comment. It had been heard that there had been comments from the applicant's attorney that some "things" were "fed" to the Town Attorney in a misleading manner. The Town Engineer carries a tremendous amount of weight, Mr. Burns said. Abutters have presented an excellent case. The Town needs to answer these questions exactly, one after another. Since things are not totally thought through, he didn't feel a recommendation could be made that night. The Town Engineer was there to discuss the matter with the Board. His need to be very well informed, in case the Town's decisions get appealed, remained crucial to the Town's position.

Mr. Munro brought up Attorney Austin's letter of August 8, 2001, and asked if the Town Attorney should review such matters first. Mr. Burns said that no, the Town Engineer must review matters first. He said that there are engineering issues still unresolved. Mr. Munro said that the Planning Board didn't have the customary notes on hand, that evening. Mr. Burns replied that the Planning Board would address abutter's concerns in the next review, when there would be a package of the abutters' reviews and letters for the Board. At that time, when things are well organized, there could be a recommendation made. Mr. Arnold stressed that the Town Engineer has to perform in a timely manner. Mr. MacDonald said that the Board needs time to "digest" and "reflect on" the information before the next meeting. Mr. Bibb was concerned about the Town Planner's answer to Mrs. Cowenhoven's recent letter. Mr. Burns replied that all letters would be reviewed. Mr. Farrell asked when the work would be done. Mr. Burns said it would take 2 weeks to review and organize the documentation. The Town Engineer, Jon Edgerton of Wright Pierce, was brought forward. He stated that he had been through most of the material, including last April's 26 pages of faxes from the abutters' attorneys. However, he was waiting for specific direction from the Planning Department, in order to save costs in reviewing the tremendous amount of information. The storm water drainage and the rights-of-ways had been engineering issues, all along. He had spent a lot of time looking at the Anderson-Livingston, the applicant's engineer, information. His concern was where to "draw the line." Mr. Arnold said that he wanted the pros and cons laid out. He also asked when to expect the report encompassing the paperwork to be delivered. Mr. Edgerton replied it would take 2 weeks. Mr. Farrell said that he believed Mr. Edgerton's work would be a supportable opinion that would give the Board the tools it needs to form a basis of their decision. Mr. Bibb said that the information would indicate whether the application complied with Town Ordinances, or not, making the Board able to determine its acceptance or denial. He said the goal was to have the information for 2 weeks in the Board members' hands, before the next meeting. Mr. MacDonald referred to Vallana Pratt-Decker's letter of July 25, 2001, about State Stormwater Standards, saying that the Town has the option to be more stringent than the State regulations require. It is the Town's option, he said. The York River could enter endangered status on a newly developed state list. Mr. Munro said that assessment and accountability is an added problem. Mr. Burns said that the burden of different kinds of monitoring was already stressing the Town staff. Mr. Arnold stated that a memo from Ms. Pratt-Decker containing hearsay from 2 different lawyers had made him uncomfortable, suggesting that the Town was not getting into a good legal situation. Mr. MacDonald made a motion to request that a letter be written asking that the opinions of the two lawyers be submitted in writing. Mr. Arnold seconded the motion and all voted 4-0. Mr. Bibb moved the discussion to the next item on the agenda.

York Housing Authority Subdivision. Map 44 Lots 46 & 50 (Public hearing for final decision of the major subdivision application). Mr. Burns introduced the subject, saying that the York Housing Authority had done a good job completing the application, and that final consideration of the project was the current focus. Mr. Munro moved for final approval, which Mr. Farrell seconded. The motion passed 4-0. Mr. Burns stated that department sign-offs were needed, and that time was important in that the Housing Authority had received grant money that needed to be spent in a certain amount of time. Mr. Munro said that Public Works and the Police Departments were both ready to sign off. Mr. Bibb opened the public hearing at 8:50, to which there was no response, so he closed it again. Representatives from neither the Public Works nor the Police Departments needed to speak, stating they were satisfied with the status of the progress. A motion to approve the application subject to sign-offs obtained by the Planning Department was made by Mr. MacDonald, which Mr. Arnold seconded. All voted in favor, 4-0.

Indian Hills Subdivision Map 99 Lots 42 & 42A (Public hearing for the preliminary decision on the minor subdivision application), Mr. Burns stated he had been on a site walk of the property a year before, and that it was a large lot. The 50-foot border was a concern. There had to be an alteration in the lot layout to prevent the wetland from being endangered by the right-of-way. Furthermore, the 50' corridor needed to be repositioned, so that a road can't be built in that place at a later time. The placement of a radio tower was also a concern, he said. Mr. Farrell moved to open the public hearing at 8:00 P.M., which Mr. Munro seconded. Phillip Rowe stated his desire to bring the Board up to date with regard to a boundary dispute associated with the property, and that he planned to go to the land during the next week with an engineer to work on the problem. He was told that the dispute needed to be solved before the Board can give approval. With no one else coming forward, the public hearing was closed.

Mr. Burns said that optimizing sight distances and preserving the wetland are the two main issues in this matter. John Hughes, applicant, went to the podium and gave a

humorous tribute to the Board, hoping Steve Burns's life will become less "interesting," for his benefit, soon. Mr. Hughes had reviewed the original changes suggested a year ago and felt that Mr. Burns had reversed himself and lost the simplicity of the project. Mr. Hughes acknowledged that public safety at the road intersection was important. He wanted to proceed quickly. Mr. Bibb replied that the direction of the project would coincide with the plans discussed on the recent site walk, especially regarding avoidance of alteration of the wetland. Mr. Burns, responding to Mr. Hughes's suggestion that he had reversed his position, cited Article 11 in the Zoning Ordinance, which wasn't very "interesting" a year-and-a-half ago, "but it is now." Those changes were reflected in Mr. Hughes's frustration. Mr. MacDonald said that approval from Public Works Director, Marvin Swain and Police Chief Bracey was still pending. Mr. Bibb made a motion to grant preliminary approval to the application with caveats about the driveway having to go between the lower lots, to preserve the wetland as much as possible, as well as the need to confer with Mr. Swain and Mr. Bracey about their issues. Mr. Arnold seconded the motion, which passed, 4-0.

Larson Subdivision. Map 86 Lots 4, 4A, 4B & 4G (Public hearing for preliminary decision on the minor subdivision application), Mr. Burns introduced the subject by stating that two 90° turns in the planned road were impossible to ignore and needed to be softened. The buildings on Lots 1 and 4 met engineering standards. He said that the applicant did not present an idea of where a building can go on one particular lot. Mr. Burns had received a call from an abutter, Mr. Helkowsky, who expressed concern about the locations of wells and septic systems near his own. As well, wetlands on the property have to be judged. A brief evaluation had made it look as if there was an isolated wetland. This is a Shoreland area, as well. Reduction of building envelopes to buffer and protect wetlands will be necessary. Building envelopes will have to be moved to keep tree cutting away from the wetlands. The screening along the road is an issue, but location of fencing, or whatever solution there will be, is not yet apparent.

Mr. MacDonald brought up the issue of whether natural vegetation, like hemlocks, would be appropriate to this application. Mr. Munro said that there is an issue of whether supplemental planting should be in the setback from the wetland, or if the area should be left as it is, and that there was propensity for erosion in the drainage swales. Mr. MacDonald stressed the importance of minimizing the amount of impermeable surfaces on this subdivision. As soon as construction begins, there will be a mess, he said. Mr. Munro suggested that the increase of drainage on these properties would cause significant problems in the swales, as there are at Cutts Brook. Mr. Bibb asked if Lou Chamberlain, project engineer, wished to make a presentation. Mr. Chamberlain declined, stating that the Board had a handle on the situation. At 8:25 pm, public hearing was opened. Tom Fisher, an abutter on Creation Lane, stated he had walked over the area, looked at the road, and gone over Town regulations for subdivisions. He said that the 12-foot-6-inch-wide road would be impossible for an 8-foot fire truck to maneuver. He then presented a photograph of cottontail rabbits living on the property, stating that they were endangered. He also stressed the importance of safety on the road there, stating that two weeks previously there had been an accident nearby, close to Domino's Pizza. He did not understand why the plans called for paved roads with shoulders and concrete sidewalks, yet dirt roads were being discussed by the Planning Board. At the May 10, 2001 Planning Board meeting, he heard Board-member Dave Marshall state that he was reluctant to grant waivers on the road surfaces in that area. Mr. Fisher continued, stating his concern about the 90° bends, and the potential trouble for fire trucks and snowplows the bends would cause, especially in wintertime. He was concerned about pollution and traffic hazards. He believed that the sight distance could not possibly be 450 feet, looking north. He said that if the area were declared "wetland," that the structures had to be set back from the high water line at no less than 100 feet, and did not believe that was being planned.

Mr. Munro said that mixed-use zoning applied to this situation, and would make the setback 35 feet, rather than 100. Mr. MacDonald said that the Route 1 corridor has a 35-foot setback, anyway. That rule was located in Section 8.3.3.4. Mr. Bibb said that the roadway width would be changed, that the road entrance would be redesigned. The Fire Department and the Police would approve all of it before the Planning Board ever would get to it, anyway, he said. There was discussion about the septic systems and the delicacy of their positions near wells, as well as possible failure of the leach fields, all of which would not be overlooked, he said.

Stan Moody of the Conservation Commission, speaking on Shoreland issues, said the applicant must ensure that erosion, pollution, and impact of spawning, fish, wildlife, and other issues, must be considered in the flood plain development and use planning. Even higher foot traffic would be a problem to an area as sensitive as that, he said. The obstruction of water flow, and the adequate disposal of wastewater must be

examined. He said he felt he was validating Mr. Fisher's concern. The State Plumbing Code, which dictates the design of septic systems when there are 2 or more disposal fields separated by less than 100 feet, contains specific references for compliance. The wetlands impact is a major consideration, as well. Two-hundred-foot well radiuses will be necessary, Mr. Moody concluded.

Katie Carr, a Creation Lane abutter, spoke about her concerns over the proposed 9 hemlock trees or the possible fencing, which will be against her property. When she finished speaking, Mr. Bibb closed the public hearing.

Lou Chamberlain returned to the podium, and spoke of his firm's plan to change the 90° corners to allow for emergency vehicles. They will look at the entrance again, allowing 60 feet, or so, for 3 cars to stack up for 20 feet. Plans for the swale in that area will include increasing the size of the culvert. He stated that there will be separate septic fields, and each field will be independent of the others. He felt that the setbacks are adequate as single systems. Decisions about what is applicable will be made through guidelines established by the Code Office.

Mr. Munro said that Lot 4 is not under careful review, because there is an existing structure on it. At owner's permission, he went there and suggested that the plan might incorporate stabilization measures considering its proximity to Rt. 1, with regards to the brook that goes through there. He found raw ground and erosion there. Mr. Chamberlain agreed to look at it. Hemlocks can be replaced with a fence to block headlights, he also said. Mr. Bibb felt that there are too many issues to be able to pass the preliminary approval, that evening. Mr. MacDonald said he was looking for the efficacy of putting in other vegetation in the area near the brook and planned to ask Michelle Moody for guidance. He is concerned with issues about how the lots have or have not been disturbed. Mr. Arnold stated he wanted to retain the "shape" of the property. Mr. Bibb said that the brook must be 100% protected. Mr. MacDonald said that by looking it as a flood plane, the area should be zoned Resource Protection. Mr. Bibb said that they should not entertain a thought to approve the application at this time. Mr. Burns added that the applicant has a good idea about what is needed to get the application back on the Planning Board agenda. Mr. Munro commented that the ground in that subdivision is different than any other with which the Board has had to work. Mr. Burns said that Mr. Fisher indicated the cottontails were endangered, when really, they are of "critical concern," and not endangered, and therefore are not subject to protection in the State of Maine. As far as the cottontails were concerned, there was nothing the Board could enforce. Mr. MacDonald moved to table the issue, which Mr. Munro seconded. All voted in favor, 4-0.

In **Other Business**, Vallana Pratt-Decker, Environmental Engineer/Asst. Planner/Asst. CEO, proposed to inform the Board of the progress in processing Shoreland/Wetland applications. She also asked if using part of the Planning Board meetings for Shoreland/Wetland business was a possibility, proposing that the first hour of the meetings be designated for triage. Various members of the Board informally nodded their heads or said, "yes."

She said that for the upcoming Committee meeting scheduled for the following Wednesday, she was preparing 4 applications in the chronological order of their receipt, plus one additional matter from the York Water District. Those five are listed here.

- 21 Pepperell Way (a house addition)
- 45 Mill Lane (removal of a house for new construction)
- 48 Desmond Lane (removal of asphalt for driveway reconfiguration)
- Modified Shaheen application (with smaller addition than originally proposed)
- 245 Scituate Road (the relocation of a fire hydrant for emergency purposes, by the Water District)

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Ms. Pratt-Decker stated she wished to update the status of her, Steve Burns, and Mark Badger's tracking of land use violations by developers and individuals with single lots. As well as the ones they had recently discovered, she felt there were perhaps another 10-12 land violations in existence. Her list of land use violations follows.

- The Meadowbrook Plaza septic system was to be replaced due to chronic violations
- Bayberry Subdivision had a Stop Work Order for building without permits
- White Pine Subdivision had a Stop Work Order from accidentally breaking into a septic line
- Webber and Tom way had a Stop Work Order for having no permit and for filling in wetland
- Roaring Rock Road had a Stop Work Order because the landscaping contractor accidentally cut into the septic system

•33 Garrison had a Stop Work Order because the contractor failed to install a silt fence and filled in a wetland edge
There were many cases around the filling of drainage swales and wetlands, she said, mostly small fills with brush and yard clippings. There was riparian vegetation cutting at 45 Mill-Smelt Brook. These issues needed follow-up, but there was usual, inadequate staff time.

In backlog, in June 2001, there were 53 applications to the Shoreland/Wetland Committee, including litigation cases. During June and July, 9 were processed. Five applications were currently up for review; leaving 39 as of the day she presented this information to the Planning Board. In the last 2 or 3 weeks, 8 new applications for permits have come in, taking the total to 47. There were 5 requests for quick reviews for speculation (delineation of Shoreland boundaries). Mr. MacDonald interrupted, saying that the quick reviews are not part of the backlog, and that those people should get their own experts. Mr. Farrell asked for the list on paper. Ms. Pratt-Decker said she would deliver one.

Mr. MacDonald stated he had read in the paper that the Walter Woods complex is a "family subdivision." As such, it would be forbidden to sell the family homes in less than five years, he stated. Mr. Bibb said that that the family subdivision did not come before this Board, but the office condo did. He said that the Board had no responsibility with the family subdivision, and that the Planning Board was being circumvented, did not like being circumvented, and that they wouldn't tolerate being circumvented.

With that, Mr. Farrell moved to close the meeting, which Mr. Arnold seconded. All voted in favor (4-0). Mr. Bibb closed the meeting at 9:25 P.M.