

**York Planning Board
Agenda
Thursday, July 13, 2006, 7:00 PM
York Public Library**

Chairman Barrie Munro began the meeting at 7:00 by introducing the Planning Board and staff. Barrie Munro, Vice Chairman Glen MacWilliams, Glenn Farrell, Richard Smith, and Tom Manzi were present. Alternate Lee Corbin was absent. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting was televised. At the end of the meeting, the mylars for Green River were signed.

1. Annual Meeting

A. Elect officers. Vote to fill positions of Chair and Vice Chair.

Chairman Barrie Munro read Sections 2.3.1 and 2.3.2 from the Planning Board By-laws detailing how the nominations and election are handled. Basically, a person is nominated for one year at a time and can stay in the position for two accumulated years. He also commented that Tom Manzi, Richard Smith, and Glen MacWilliams's re-appointment to the Planning Board was in the works by the Board of Selectmen, and that the paperwork was being submitted to the Town Clerk.

Nominations. Richard Smith nominated Glenn Farrell for **Planning Board Chairman**. Tom Manzi nominated Glen MacWilliams. Steve Burns passed out the ballot sheets, and Recording Secretary Patience Horton tallied them. Glen MacWilliams had the most votes. Barrie Munro said that it had been a privilege serving, and thanked everyone for his or her cooperation.

Glen MacWilliams assumed his position as Chairman.

Glen MacWilliams asked for nominations for **Vice Chairman**. Barrie Munro nominated Tom Manzi. There were no other nominations. The Chair asked for a show of hands. All were in favor (5-0).

B. Consider Amendment of By-Laws. Consider amendment to establish the position of Secretary.

On June 28, 2006, Barrie Munro had proposed adding Secretary to the Planning Board officers.

Motion. Barrie Munro moved to accept the changes to the Planning Board Charter dealing with the election of a Secretary, as prescribed June 28. Tom Manzi seconded the motion, which passed, 5-0.

C. Elect Secretary. If the position is created, vote to fill the position.

Motion. Glenn Farrell moved to nominate Barrie Munro in the position of Planning Board Secretary. Tom Manzi seconded the motion, which passed, 5-0.

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

Glen MacWilliams opened the Public Input session. **Bion Pike** said he wished to submit an amendment to the Comp Plan for the Board's consideration. He presented a revised version of the amendment he had submitted during the June 8, 2006, Planning Board meeting (a copy of the revised version is attached to these minutes). This version of the amendment differed in that deed restrictions would be excluded only from land parcels forty acres in size, or less. Before, all land in consideration would have been subject to exclusion of deed restrictions. The exclusion of deed restrictions is part of an effort to keep the area unique and the stewardship of land protected, Bion Pike continued. With the forty-acre cut-off, larger lots can be left for cluster housing, and they can have covenants and deed restrictions. He handed copies of the amendment to the Chairman. He also handed him a petition with about 40 signatures on it supporting this newly proposed Comp Plan Amendment.

David Lincoln represented himself as a citizen, rather than a member of the Budget Committee. He thanked Barrie Munro for his service to the Town, and he congratulated Glen MacWilliams for his new position. He spoke about the build-out plan, which he had read about in a newspaper article that Town Planner Steve Burns had co-written. He asked if a referendum question should be posed for the voters to determine if they are in favor of the creation of such a build-out master plan. He also commented on the May 25, 2006, Planning Board meeting, which featured a PowerPoint presentation showing a sampling of business activities along Route One from Kittery to Ogunquit, collected and narrated by Barrie Munro and Tom Manzi. He asked if cleanup of the less than satisfactory activities would be a Code Enforcement, Police, or Planning Board responsibility. He also asked when and how the Board planned to proceed with it. Glen MacWilliams answered that the Board would address and respond to the question sometime soon.

3. Requests for Field Changes. Decide on requests from previously approved applicants.

Steve Burns had handed out copies of a **Bayberry Ridge** written correspondence dated July 10, 2006, from Anderson Livingston Engineers. The proposed changes were referred to as Field Change No. 2. The request was to lower a culvert and put a drain on Styles Lane to prevent puddling at a low area.

Motion. Barrie Munro moved to approve Field Change #2 dated July 10, 2006. Tom Manzi seconded the motion, which passed, 5-0.

4. **Application Reviews and Public Hearings.**

- **York Elks Lodge, 995 U.S. Route One. Map & Lot: 0030A-0018. New landscaping plan to address lost front buffer.**

Terrence Parker of Terra Firma Landscape Architects described the denuded site of the York Elks Lodge. The property still has a dense buffer at the back. For the portion of the property along Route One, he proposed planting 16 canopy trees and nine evergreens, “smushing them” toward the front yard. By that, he explained, some trees allotted to the area along the side of the property would be pushed toward the front to allow greater density where it is needed. Trees, evergreens, and shrubs will be planted in other areas on the lot. The front trees will be native plants with seed-producing qualities, like American Beech, Red Maple, and American Ash. As well, ornamental switch grass will be planted, as it grows quickly and thickly. Tom Manzi wanted to know how well plants from nurseries would survive, citing the not-so-healthy-looking plantings along Spur Road as comparison. Terrence Parker described the expense and responsibilities of the contractor and owner in maintaining the plants. Tom Manzi asked if irrigation would be helpful, and Terrence Parker replied that irrigation usually proves to be a detriment, due to over-saturated root systems that ultimately rot the roots. He described a hydration system using external bag-like containers that allow the water to leech into the ground, slowly, suggesting they might be used on the Elks property. Project Architect Mark Ryan said that water service is going to be brought to the site location. He said that if thousands of dollars are going into the plantings at the site, the Elks are going to see to it the plantings are maintained. Barrie Munro asked when planting would occur. Terrence Parker answered that the optimal time is between Labor Day and October, so that the trees can root in before winter. Glenn Farrell was concerned that all the trees would be high canopy. Terrence Parker said that Hemlock, White Pine, and White Spruce would augment the canopy trees.

Chairman Glen MacWilliams opened the **Public Hearing**. Seeing no one come forward, he closed it.

Motion Glenn Farrell moved to approve the landscaping plan with the understanding that the Applicant will plant the materials in the fall, because it is the best way to implement the plan. Richard Smith seconded the motion.

In discussion, Steve Burns said that grading and other site work has to be done before planting. Mark Ryan (the architect) said that the immediate grading would be done in the areas where the fall planting will occur. Just the front, Route One area will be planted at first. The other landscaping will be the last thing phased in. Glen MacWilliams asked to see a bold line placed on the landscape plan showing exactly what area is going to be planted this fall. Barrie Munro asked about certification. Glen MacWilliams explained to Terrence Parker that the Planning Board wants to be certain that the design professional will certify that the planting was executed as planned. Terrence Parker expressed that he understands that certification requirement.

Motion. Barrie Munro moved that the Landscape Architect be responsible for certifying that the landscape plan has been installed as planned. Glenn Farrell seconded the motion, which passed, 5-0.

- **TAGT, LLC, 360 U.S. Route One. Map & Lot 0053-0009-B. Application for a Route One Use Permit to expand building and add second building.**

Builder John DeStefano thanked Barrie Munro for his having been Chairman and welcomed Glen MacWilliams to the job. He described additions to the existing TAGT Lobster Outlet, hoping to connect additional storage to the existing building. It would have loading docks that can extend for unloading trucks. He also described what he called Phase 2 (Phase 1 being the TAGT building already built). Phase 2 will consist of a detached structure built in 2 stages. The first will be a dry storage area, later connected to a cold storage/office area. The existing gravel parking will be extended to the new building. The area will drain into the existing wetlands.

John DeStefano showed the dumpster location on the plan. There will be more than enough parking. The application requires no waivers. It complies with setbacks and lot coverage. The plan to run a **water and sewer connection** through an abutter's property was aborted. The plan has changed to running the line across TAGT's own property to connect at Route One. John DeStefano also showed the proposed light fixture. The building materials will match those of the current building.

Chairman Glen MacWilliams opened the **Public Hearing**. No one spoke, so it was closed.

Barrie Munro asked Steve Burns if the application was considered as a plan change or perhaps an amendment to the original building. Steve Burns said that it is a new plan. Barrie Munro asked about compliance with Items a to z in Ordinance 18.1.4.2. Steve Burns said that John DeStefano had prepared a memo responding to those sections. Glen MacWilliams asked if the of the landscape plan had fully complied in Phase 1. He said that the new phase would require architectural certification. Barrie Munro said that the Planning Board must receive confirmation that the original landscaping plan is complete. Glen MacWilliams said that a full landscaping presentation should be made to the Board. Glenn Farrell said that samples of building materials would not be needed, as the originals were already approved.

Citing Ordinance 6.3.13.3, Steve Burns said the loading dock on the back building cannot face Route One, as planned. Glenn Farrell said that the loading dock is quite far from Route One, and that would not cause him to turn the application down. Owner Greg Desires said that if he cannot put in the loading dock, that changes everything. Glen MacWilliams said that the board has to be given a reasonable alternative, which might be a matter of landscaping, orientation of the building, or screening. Barrie Munro suggested that there was enough room to turn the building, so that it would face away from

Route One. Steve Burns reiterated that the code says loading docks are not supposed to face Route One. Tom Manzi noted that if the applicant had come in with a conceptual review, he would have learned about this at an earlier stage of plan preparation.

There was a short break.

- **Highland Farm Phase 2. 1 North Meadow Lane, and 250 Cider Hill Road. Map & Lot 0090-0029-A and 0090-0030. Application for major subdivision. Consideration of conceptual or preliminary review.**

Town Planner Steve Burns summarized issues from the last hearing, including the ordinance requirement of 10-acre lots in the Watershed Overlay District. The Applicant is responding to the possible installation of public water, showing an increase in density from 21 to 28 lots. The extensiveness of grading will most likely be reviewed. Wright Pierce had not sent requested information, Steve Burns added. The Town Attorney's opinion about split lots partially in and partially out of the wetland seems to agree with the applicant's attorney.

Applicant Engineer Steve Haight, of Appledore Engineering, said that the Bergen & Parkinson (Town Attorney) letter by Durward Parkinson, dated July 11, 2006, explains that each developed lot outside the watershed district can be three acres in size, and those within the watershed district will be 10 acres.

Tom Manzi commented that many of the lots on the new, 28-lot plan appear to be flag lots that go beyond the allowable 4-to-1 length-to-width ratio.

Steve Haight went to the issue of Lot 17, which had been suspected un-buildable. He showed how a 5,000 square foot house could be put on the lot. He also showed how combining two neighboring driveways could minimize the amount of driveway surface area. Public water could go about as far as four or five lots into the property before requiring the additional pumping station.

Chairman Glen MacWilliams opened the **Public Hearing**.

Sharon England is a direct abutter at 28 Rumsey Road. She described how water drains down into the Water District (Bolter Pond), and suggested that fertilizer and pesticides, not to mention road salt, from the proposed houses will go into the Water District, as well. No one is putting fertilizer on the land around her, now. Furthermore, the area has a great deal of ledge. Twenty-one houses would probably require 21 blastings. She added there is a historical marker on the property, a 7-foot tall cairn. Steve Haight said that it had been surveyed, and he pointed to its location on the plan.

Charlie Stedman of York Harbor said he was in opposition to the concept of the huge new housing development. The development is out of place. It poses a serious threat to York headwaters and Bolter Pond, and countless wildlife will be lost, if the housing is

allowed. He said it would be also dangerous if a second access to the project were allowed via Kingsbury Lane, because the roadway will be a ramp for runoff from the new properties into the York River.

Sharon England spoke again, describing the family of black bears she recently saw looking for berries in her back yard. She listed many other species she sees, including turkey, fisher cat, deer, and fox. She hopes there will be no access from the proposed development onto the small, woodland path near her home.

Carol Donnelly spoke on behalf of the **York Rivers Association**. The effect on the York River watershed and the lands around Bolter Pond are critical to the watershed filtering system. It is Kittery's water source and must have high water quality. She described the problems the new homes and the human impact will bring to the water. The York River is in pretty good health with good fishing, but it is a sensitive location. The Department of Environmental Protection lists the entire York River watershed as a priority, she concluded.

Dave Michniewicz said that any failed septic would run into Kittery's water supply. Non-conventional water treatment is designed to handle this type of occurrence. It is better to prevent it than to clean it up later. Also, there should be a survey of the area to decide if there are rare or endangered species. There should be a wildlife corridor. No waiver should be allowed preventing the extension of public water to the development. It would be unfair to others who have had to extend water in the past.

Linda Gurtman said that she concurs with the others who have already spoken. The Town and others, too, have invested time and money into preserving such areas. This one is a critical corridor for flora and fauna, she said.

No one else came forward, so the **Chair closed the Public Hearing**.

Barrie Munro said that the Board has to determine whether or not to support the Town of York's viewpoint about the lot size. Tom Manzi said that between 4 and 10 lots look like flag lots, and may not be legal. He suggested that the Applicant re-calculates and presents lots that are legal. Steve Burns agreed that many lots do not meet the ratio. Glenn Farrell said that the Board cannot tell the applicant that he does not have to extend the public water line, when the Board has required many others to do it before. Barrie Munro said that he is opposed to the cookie cutter layout that the 28-lot plan represents.

Glen MacWilliams said that the applicant has expressed an understanding about the environment in the past. The applicant should come up with an approach to a wildlife corridor. The clean water issue has to be addressed. Blasting, driveways and disruptions will change the way the site currently works. The types of cuts that the road will require still must be addressed, as must the amount of necessary earthwork and exactly how the driveways will fit into the landscape. Flora-fauna surveys should also be conducted.

Steve Burns added that that there is a setback of at least 500 feet in the Watershed. That will change many of the lot envelopes. There should be an assessment by a wildlife biologist. There is a matter of open space. An area consisting of 10 percent of the area that will not be built upon should be set aside for open space for people in the subdivision or the public. It is critical to do it for the protection of the watershed. Barrie Munro added that open space is critical for wildlife, as well.

4. Minutes. Review and approve draft minutes.

Motion. Planning Board Secretary Barrie Munro moved to accept the June 22, 2006, minutes as submitted. Glenn Farrell seconded the minutes, which passed, 5-0.

5. Other Business/Adjourn

Richard Smith referred to the proposed **Comp Plan Amendment** submitted at the beginning of the meeting by **Bion Pike**.

Motion. Richard Smith moved to accept the proposed amendment and put it on the November ballot for the vote. Glenn Farrell seconded the motion.

Richard Smith defended the proposed amendment, saying that it only pertains to land use. Glen MacWilliams said that the amendment is incredibly restrictive, in that it covers all agreements with regard to land. Richard Smith amended the motion with the words “except for conservation land and affordable housing.”

Amended Motion Richard Smith moved to accept the proposed amendment that will leave out conservation land and affordable housing from areas that prohibit deed restrictions. The amendment will go on the November Ballot. Glenn Farrell seconded the motion.

In further discussion, Barrie Munro said that he was not sure it should be on the November ballot because of possible far-reaching consequences. Richard Smith replied that the amendment does not affect cluster housing. When the Town Attorney was “faced with it,” he was happy with it, Richard Smith said. The 40 people who signed the petition have the right to have the 10,000 plus-or-minus people of York decide how the town should be in the future, he concluded.

Vote. The motion failed, 2-3. Richard Smith and Glenn Farrell were in favor, and Glen MacWilliams, Barrie Munro, and Tom Manzi were opposed.

In other business, Barrie Munro mentioned he was planning to walk the CMP right-of-way to observe the landscaping and would gladly take companions.

The meeting ended. The time was 9:45.