

York Planning Board
Thursday, January 26, 2017, 7:00 P.M.
York Public Library

Call to Order, Determination of Quorum; Appointment of Alternates

Chairperson Amy Phalon called the meeting to order at 7:00. A quorum was determined with five people voting; Amy Phalon, Vice Chair Pete Smith, Board Secretary Gordon Eldridge, Al Cotton, and alternate Kathleen Kluger, who was appointed as a voting member in place of Lew Stowe who was absent due to illness. Alternate Wayne Boardman was present, but did not vote. Patience Horton took minutes. Planning Director, Dylan Smith, represented staff.

Public Forum

- Mike Micciche, 7 River Farm Road, said there are loopholes allowing commercial projects on Route 1, and elsewhere, to fill wetlands beyond the limits of Article 1. A lot is permitted up for to 4,300 square feet of fill to access highland on a buildable lot, but projects like the Federal Credit Union and Rite Aid have filled wetlands for parking lots and drive thrus. He would like this to go on the Planning Board agenda for discussion and then be forwarded to the Board of Selectmen on their earliest agenda so it gets on the November ballot.

Minutes

There were no minutes to review.

Public Hearing on May 2017 Ordinance Amendments

This document follows Chair Amy Phalon's organization of the meeting in the following order.

Public Hearings

- Article 8—Shoreland Overlay District Amendment
- Transient (Short Term) Residential Rentals
- Article 9—Green Buildings

Board Discussion

- Article 8—Shoreland Overlay District Amendment / Vote to Forward to BoS
- Transient (Short Term) Residential Rentals / Vote to Forward to BoS
- Article 9—Green Buildings / Vote to Forward to BoS

Article 8—Shoreland Overlay District Amendment

Dylan Smith: the Town is trying to incorporate the State's new minimal guidelines as they relate to Shoreland standards, making York guidelines at least as stringent as the State minimum guideline. That includes a major change to the timber harvesting section, which would require State approval as opposed to our local level of approval.

Also, before last November, the Planning Board had proposed to disallow any sort of expansion of structures within 25 feet of the wetland resource. Since then, the Board has taken up language that completely emulates the existing language of the State law.

Motion: Pete Smith moved to open the public hearing on Article 8, Shoreland Overlay District amendments. Al Cotton seconded. The motion passed 5-0.

- Jim Fitzgerald, 70 Del Park, asked for Paragraph G, which limits building expansion to 30% in wetland setbacks, to be removed from the York ordinance. It is not in the State statute, he said, and is no longer necessary.

The Chair closed public comment for Article 8 - Shoreland Overlay Amendment

Transient (Short Term) Residential Rentals

Subcommittee Chairperson Kathleen Kluger: The first public hearing for Transient Residential Rentals (TRR) also known as Short Term Residential Rentals (STRR) was held December 20, 2016. Comments from different sources, including that hearing, email, phone calls, and most recently from the Code Enforcement Officer were taken, recorded, and discussed. After tonight, we will decide what we are going to forward on to the Board of Selectmen. Their hearing is Monday, February 27, 2017, which will give people another opportunity to speak up.

Motion: Al Cotton moved to open the public hearing. Peter Smith seconded. The motion passed 5-0.

- Ed McKenna identified himself as "no fan of this ordinance." He read a three-and-a-half page document into the record. He highlighted dissatisfaction with the ordinance stand on zoning, parking, complaint and violation procedures, permits, standards for unoccupied STRRs, and record keeping. He told board members that there is still work to be done, and the ordinance should not go to ballot.
- Maureen Regan, 31 Ocean Avenue, owns Seaside Vacation Rentals. She did not understand how a license and permit can be dually necessary. She was concerned about the cost of permits for older homeowners. She said that the word 'transient' sounds like someone is sleeping on a park bench. There shouldn't be a difference between owner occupied and not owner occupied. The bulk of STRR problem cases across the USA and internationally occur in owner occupied units where there are conflicts between owners and guests. She did not agree with the process of fighting complaints if one is made against an owner. There is still a lot of work to be done. She recommends that it not go to ballot.
- John Beckwith, 11 Dove Bluff, said, "Somebody might want to research further into Statute 72.2007, Section 6.1.6, which is not retroactive." If a complaint has to be registered, it should be filed in person as a documented complaint. He did not think a town this size can get 1,000 residences inspected during the summer this year.

- Mike Ouellet, 2 Mountain View Lane, stated into the record that he is not in favor of additional ordinances. He, like others, opposed the word “transient.” He did not understand why there are different regulations for owner occupied and owner un-occupied rentals. He didn’t understand why there is a difference between a permit and a license. The home evacuation map is excessive, but displaying the STRR permit and the information required is a good thing because anyone coming in can see what the regulations of the unit are. The issue of complaints vs. violations need to be clarified.
- Lisa Hedger, Shore Road, Cape Neddick, is opposed to more legislation. "Most of these regulations that are being put in place are already going to higher courts to be declared unconstitutional because of the additional costs on us tax payers," she said. She said this town is engaged in "crony capitalization" and picking winners and losers in this economy.
- Tate Duffy, 1 Wile Lane: My second home facilitates my ability to pay for the home I actually live in, he said. He is owner of the Sand by the Sea Motel on Short Sands. He is against the whole thing. If people who are renting are continuously causing trouble, complaints, or violations, like on Garrison, there should be some kind of policy to make them lose their ability to rent. “If the argument going on here gets too intense, you could be looking at a class action law suit. You are not going to let people tell me how to run my businesses. I can only afford the home I’m living in by the home I’m renting out.”
- Heather Higgins, 10 Gladys Lane: She is not in favor of the ordinance. She objected to the negative connotation of the word “transient.” She did not understand the difference between the permit and the business license. Are we required to get both? What if she already has a Tax ID number? She asked for clarification between complaints and violations. When the recession hit, they kept their family home by moving in with relatives and renting their home out in order to make the mortgage payments.
- Phillip Miller, 4 & 6 York Street: He has rented out his house during summers for 12 years. Can someone submit a meritless complaint without some sort of proof?
- Walter Woods, York: If people are complaining, they should file a suit against that person and go through the legal process. The noise and parking ordinances are already in place.
- Sarah Anderson, 371 York Street: She is a licensed real estate agent in Massachusetts. She does not think a new ordinance is necessary. If a fire inspector in York inspects five units a day, it will take 170 days to inspect all the units in York. This is just a way to add taxes to a small percentage of the population, and it is a form of discrimination.
- Magdeleine Came, 59 Garrison Avenue: She asked for a document that reflects this new ordinance amendment against current ordinances on a point-by-point basis.

The Chair closed the public part of the STRR hearing.

Article 9—Green Buildings

Subcommittee Chairman Wayne Boardman said that the ordinance is basically unchanged, except that the term “Green Buildings” has been changed to “Sustainable Energy Efficient Buildings.” He felt it is ready to go to the Board of Selectman, and that they will agree to put it on the ballot. He had no doubt it will be passed.

Motion: Pete Smith moved to open the public hearing on Article 9, Green Buildings as Amended. Kathleen Kluger seconded. The motion passed 5-0.

No one came forward to speak. The chair closed the public hearing.

Board Discussion - Shoreland Overlay District Amendment

Dylan Smith: The man who asked for Paragraph G to be removed from the Shoreland Overlay District Ordinance at the beginning of the meeting did not know that the ordinance is doing just that. Dylan then asked rhetorically, “Is there a way for the ballot to make clear that some of the language that is already and place was not being examined and is not being changed.” Amy Phalon said that some people are misunderstanding what they are voting for at the ballot box. Pete Smith said it appears they don't understand that the items in italics are the changes.

Motion: Pete Smith moved to forward Article 8 - Shoreland Overlay District, as amended, to the Board of Selectmen for their review. Kathleen Kluger seconded. The motion passed 5-0.

Board Discussion - Transient Short Term Residential Rentals.

Kathleen Kluger led the board members through the amendment section by section, making final changes before forwarding it to Board of Selectmen.

- STRR not TRR: The use will be called “Short Term Residential Rental,” rather than “Transient Residential Rental.”
- Definition of the Owner Occupied Category: “Property owners who are renting their primary residence for less than 30 days in a calendar year, shall be considered resident or owner occupied, even if they are not on premises during that rental period.”
- Complaints: Repeated violations of compliance to the standards as verified by the CEO can leave the property owner subject to fines and permit or license revocation for one full year.
- Business License: Section 7.19.3 defines how property owners with a Non Owner Occupied STRR designation will obtain business licenses pursuant to the Town's business licensing ordinance.

- Inspection: Tenant or neighbors' complaints of any kind that are brought to the attention of the CEO will render a property subject to inspection. If there is a catastrophe, and these guidelines aren't followed, the owner is liable.
- Miscellaneous: An evacuation map shall be visibly posted. A signed rental agreement for each rental shall be required and made available to the CEO upon request. Electronic documents are acceptable. Owners do not have to provide their records on a regular basis, but rather only on request of the CEO. Every STRR shall be equipped with fire and carbon monoxide detectors.
- Sunset Clause: A sunset clause, as recommended by CEO Amber Harrison and the Selectmen, will allow a two year time frame for the Town to evaluate the impact of this amendment.
- Town Attorney: The Planning Director will ask the Town Attorney for language pertaining to parking and the sunset clause.

Motion: Chair Amy Phalon asked for a motion to incorporate the ordinance amendments relative to Transient Short Term Residential Rentals and forward them to the selectmen. Kathleen Kluger so moved. Al Cotton seconded the motion, which passed 5-0.

Article 9 - Green Buildings

Subcommittee Chair Wayne Boardman reported that the only new change is the name from "Green Buildings," to "Sustainable Energy Efficient Buildings." He felt the ordinance amendment is ready to go to the Board of Selectman, they will agree to put it on the ballot, and it will pass.

Motion: Pete Smith moved to forward Article 9, Green Buildings, as amended, to the selectmen for review. Gordon Eldridge seconded. The motion passed 5-0.

Discuss November 2017 Ordinance and Comprehensive Plan Initiatives

This discussion was postponed for a future date.

Other Business

The Planning Board meetings in February will be held at the Senior Center.

Discuss Board Meeting Dates

The Selectmen's hearings for the STRR, Shoreland Overlay, and Green Building amendments will be on Monday, February 27, 2017. Kathleen asked for all available Planning Board members to attend. She will present the STRR Ordinance amendments. Amy Phalon will present the Shoreland Overlay Ordinance amendments at that meeting.

Amy nominated Kathleen to review Dylan's changes to the ordinances before they are forwarded to the Selectmen.

Adjourn

Motion: Gordon Eldridge moved to adjourn. The time was 10:30.