

**TOWN OF YORK PLANNING BOARD
THURSDAY, JUNE 13, 2002, 7:00 P.M.
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MINUTES

Chairman Al Bibb began the meeting at 7:00 P.M. Planning Board members Barrie Munro, Glenn Farrell, Torbert Macdonald, and alternate Dan Remick, who voted in place of Dave Marshall, attended. Town Planner Steve Burns, with assistant Brett Horr, represented the staff. Patience Horton was the recording secretary. The meeting was televised.

MINUTES

Minutes were not reviewed at the meeting.

APPLICATIONS

Indian Hills Subdivision Amendment. 99/42. Public Hearing regarding an amendment to prior approved subdivision off to North Village and Ogunquit Roads.

Charles/Barbara Ganem. Jessie Gibson Way, Map 94/Lot 80. Remanded Shoreland Application. Tabled from previous Planning Board meeting.

Steve Burns stated that the Shorelands Committee had denied the application several months ago. The Ganems took the matter to the Board of Appeals, which forwarded it to the Planning Board. The staff recommendation was to allow the applicant the permit, to repair additional damage to the wetland, and to create a road that meets the minimum standards.

Mr. Bibb opened the Public Hearing. Stan Moody of the Conservation Commission, and a member of the former Shoreland Committee, asked if the application was new or not. He said that whether the wetland was contiguous or not became unclear in the progression of mapping that had occurred over years, and that if it is contiguous, mitigation must be done. With no one else to speak, Al Bibb closed the Public Hearing.

Mr. Bibb confirmed that it was not a new application. Torbert Macdonald, also a member of the defunct Shorelands Committee, stated there was no reason to believe the property is a contiguous arm of the wetland.

Mr. Macdonald moved to accept the application with the conditions enumerated by Mr. Burns. Glenn Farrell seconded the motion. There was no discussion. The motion passed, 5-0.

White Pine Ridge Subdivision. 766 U.S. Route One, Map 94/Lot 16. Application to amend site plan.

Brett Horr introduced the application as a 17-lot subdivision on Route One, previously approved by the Planning Board. The applicant was returning because of a need to come below the required threshold by turning common space into open space to accommodate the threshold, for which he had plan notes. On a plan, Bill Anderson pointed out the changes in the buffer and also changes in the Parcel A pump station.

Barrie Munro asked how open space entrusted to the Town of York would be maintained. Selectman Michelle Moody said that she thought this issue had previously gone forward as a warrant article and passed. Mr. Munro said that unlike the York Land Trust, the Town does not have money set aside for this, nor a plan for supervising such land. Torbert Macdonald said that if a codicil exists, it could not be changed without a vote, which will be in November. Al Bibb said that the

Planning Board could give approval, which then goes to the public. Bill Dale, the developer's attorney, said that the proper procedure is for the Board to approve the application, which meets the standards. It will then need an amended approval from the town meeting.

Al Bibb opened the Public Hearing. Stan Moody, in his role as a public citizen who happens to know the ordinances, said that in a cluster subdivision, lots are smaller than the authorized size, and that excluding the open space from the subdivision makes it not a subdivision anymore. Jim Liard of the Board of Directors of the adjacent subdivision said that he had no objection to the plan, but felt that there were a lot of new changes. Three drainage easements that were not there before were there now. His concerns were about lots uphill to the open space, which will use the open space as storage for what comes from culverts, pipes, or from pumping. He pointed out that a home has been put on the utility lot. A buffer previously suggested was no longer offered. As well, the roadway needs dress work so it is passable for his community.

Torbert Macdonald asked if there had been substantive changes. Bill Anderson replied that the recorded, signed, and approved plan is just like the one before him. Macdonald asked why wetland was being given, when it is unbuildable. Anderson replied that plenty of the open land is buildable. Barrie Munro brought up the 50% open space ordinance, which Steve Burns clarified by saying that in this case, the open space is equal to or more than 50% what is being built.

Barrie Munro and Al Bibb motioned and seconded to close the Public Hearing. Glenn Farrell said that the Board should approve the application subject to the Town's accepting the open space. If the Town votes not to accept it, the applicant will have to come back to the Board. Barrie Munro asked how much the developer can go forward. Al Bibb answered that the developer can't register the plan in Alfred until he gets the vote. The action can be pending the voters' accepting it. Mr. Bibb said that the open space is not the Board's responsibility. Torbert Macdonald said he would reclude himself from voting because he was not part of the Board when the subdivision was established in the first place. Attorney Daly clarified that the Town is not "getting the land." It is a conservation easement.

Glenn Farrell moved to conditionally approve the plan subject to the Town, or some other body, accepting the conservation easement. Barrie Munro seconded the motion. In discussion, Dan Remick asked if he should be voting, because Torbert Macdonald had suggested Remick not vote for the same reasons he was abstaining. Mr. Remick felt sure that, since this vote concerned a minor amendment, rather than the approval of an entire subdivision, he should vote, to which Chairman Bibb agreed. In further discussion, Steve Burns added the following language to the motion: "A portion of the open space area has been accepted by the Town as open space. The conservation easement to be added to the open space shall be transferred to either the Town or another conservation organization to be approved by the Planning Board."

Chairman Bibb called for the vote, which passed, 4-0, with Torbert Macdonald abstaining.

The Ridge Subdivision. Ridge Road, Map 38/Lot 4. Application for an 11-lot subdivision.

Brett Horr introduced the application for the 12-lot subdivision, for which traffic safety had already appeared to be the main issue. The applicant had made a traffic study of the intersection, and a site visit to the property revealed ideas about improving the conditions there, including a proposed, projected realignment. A letter had been received from the Police Chief containing a quote from DPW pertaining to the cost of the realignment, which the applicant would pay. The changes should be made after the sewer district finishes its fall, 2003 installation. Brett Horr showed the proposed changes on one of his charts, including the cutting back of vegetation, the addition of an intersection island, provision of two turning lanes, and additional stacking space. A further plan change includes six shared driveways for the eleven lots, which Bill Anderson showed on one of his plans. Developer Duane Jellison said that the soil analysis had found all the test pits exceptional and above expectations. During the site visit, the group had decided to pull the envelope back to the stonewall.

Owners will be mandated to discontinue their septic and connect to the sewer, when it comes in. Sidewalks will connect the whole property.

Barrie Munro and Torbert Macdonald motioned and seconded to open the Public Hearing. Steve Bracciotti, of 7 Windwood Trail, spoke first, asking how the project it will unfold and its projected time line. Mr. Jellison stated this was his 6th (or so) project in town. He tries to work around the neighborhood during hours that are not too upsetting to them. His workers do the excavation, clear the necessary area, put in driveway, complete site prep work for foundation, and then frame. He expects to build two or three per year with no particular lot order. Mr. Bracciotti asked about tree cutting and the price of road improvement, which Brett Horr stated was to be \$20,200 (road). Bracciotti asked about the condition of the road. Torbert Macdonald replied that the Police Chief wants to be involved and has taken a serious interest in this project. Steve Burns said that the developer will take out the ledge and clear around the curve, however, the deficient pavement is the Town's issue. Mr. Bracciotti said that 6,000 cars pass through that part daily in April, and in summer, there is a 46% increase. The road and intersection has a history of accidents. It is unconscionable to add construction traffic until the road hazards are taken care of. The project will start as soon as it has approval, but the safety will not be taken care of until 2003, he stressed, and asked the Board to put the safety as the priority. He would like to see Town-owned, rather than private, sidewalks, comparing the situation to that of the Cliff Walk, where private maintenance has been an issue.

Stan Moody, Conservation Commission, spoke briefly about the need for proper protection of the Little River.

Dwight Bardwell, abutter, said that safety is his No. 1 concern. When the Middle School was built, a police officer was required to be there. He wants the same consideration during the times of the heaviest levels of truck and heavy traffic, when he would like to see a police officer there, as well. He is also concerned about Little River, which already has pollution problems. The "top of the hill" was built by experts, he said, and experts blew it, implying that calling someone an expert does not make a project perfect. There will be accidents if there is a driveway there at the intersection. Al Bibb asked if there is student pedestrian traffic. The answer was that there are not so many younger kids, but older children. Sidewalks will increase the number of pedestrians. Steve Burns said that the police was a permanent requirement at the Middle School. Mr. Bracciotti said that the pedestrian traffic would increase because of the 11 families added to that part of town. Perhaps the Town could like at the responsibility of continuing the sidewalk. But, the sidewalk will be the last thing to be done.

Mr. Macdonald and Mr. Farrell motioned and seconded to close the Public Hearing. Mr. Jellison said that he has no problem with putting the sidewalk in early, which will be arranged at the same point of the issuance of the first application. Mr. Bracciotti said something about "sweet," and, "it pays to come to meetings."

Barrie Monroe asked Bill Anderson how Lot 1 would be drained. Anderson replied that everything drains to the rear, away from the road. It will go through the back yards. There was more discussion about safety. Glenn Farrell said that the street modifications and the sidewalks issues as plan notes should be part of the first permit. Barrie Munro asked if the Board could impose a 3-unit-per-year phasing, which Duane Jellison asked not to have forced on the subdivision, because there are too many variables that could mess up a promise to limit it. Torbert Macdonald asked if any of the healthy trees along that side of the road could be saved. Jellison answered that he tries to keep nice trees and has no intention of taking what can be kept.

Glenn Farrell moved to approve the preliminary plan, which Barrie Munro seconded. In discussion, Mr. Macdonald said that the approval of the Police Chief is very important. Al Bibb said that whatever the Chief finds would be changed. Duane Jellison said that the final approval is subject to the Chief, Town Planner (Steve Burns, who interjected that as his part, he will personally hand the

pen to the Director of Public Works for signing), and Road Commissioner. The vote was made, and the preliminary plan approval was passed, 5-0.

Sohier Park. 11 Sohier Park Road, Map 29/Lot 20. Application for reconfiguration of parking area and review of landscaping plan.

Steve Burns introduced the matter, a proposal to modify improvements in the park. There was discussion about whether jurisdiction over the project is dictated by Section 4.2.2 usage, or as a Limited Residential Shoreland District issue needing CEO approval. Mr. Bibb said that the application should not be treated any differently than other Shoreland applications and should be reviewed as such. Glenn Farrell reminded the Board that they had reviewed the site plan for the visitor center in that park in an earlier year and should do so in the same capacity. Torbert Macdonald brought out official Maine guidelines, from which he referenced some DEP Chapter 1000 Section 438-A, Page 11, Table 1 Land Uses #23 Recreational Areas, showing that it the matter was supposed to be that of the Planning Board. He motioned to use those guidelines from the State as jurisdiction in the matter. Steve Burns said that he did not know if he could review it, if jurisdiction is established someplace else. Mr. Bibb suggested that Mr. Macdonald change the motion to the State's mandating the Planning Board having jurisdiction. Mr. Macdonald chose to withdraw the motion, instead.

Todd Richardson, of a landscape architecture firm in Saco, gave a project overview and handed out photos, discussing the areas that need to be improved. Compacted and eroded soil and minimal handicapped access were among other problems. Memorials, walkways, bus parking were also cited as important issue for change. Mr. Macdonald asked about the elderly who will visit the area, also bringing up the matter of hydrocarbons and how they will be captured before entering the ocean. Torbert Macdonald and Barrie Munro motioned and seconded to open the Public Hearing.

Stan Moody, Conservation Commission, identified the Nubble Light as the most visible motif in York, deserving great care when establishing change. The hydrocarbon contribution could draw off toward the center of the parking with an engineered drain with oil traps. Vegetation would have to be protected with a rail fence to keep people from going across it. Steve Dunn, married to the owner of Fox's Lobster House, asked the Board to look at the reconfiguration of the car parking, particularly that of dedicated bus parking, because what exists now works well. The \$130,000 raised every summer at the Sohier Park Gift Shop should be enough money to do what they need to do without adding more memorials. Selectman Michelle Moody said signs should be put up telling busses not to run their motors while they are standing.

Mike Sullivan, Director of Parks and Recreation said that the new plan adds 15 needed parking spaces, controls pedestrian flow by preventing their interaction with automobiles, and keeps cars from parking at the very edge of the pavement. In memorializing in the park, there needs to be a plan in place that is not haphazard and random, and establishing that is part of the new plan. Torbert Macdonald asked if the memorializing would be limited by the new plan. The answer was, yes. Kathy Goodwin of the York Chamber of Commerce identified the memorializing and park design as issues of concern for the members of the Chamber, which clearly recognizes the park's importance to the economy. There is a concern about buses loaded with the elderly who only wish to stand at the bottom of the steps of the bus and take a couple of pictures, rather than walk up the hill to the point. With the memorials, if it is going to continue, the line should be drawn just on a person's name. Also, how fair is it to generations in the future who cannot get their names in there because the limits set now will have been filled? Phyllis Fox, who owns Fox's Lobster House, said that despite her experience with and knowledge of the Nubble Light area, she was not consulted in the formation of the new plan and felt that she should have been. Beauty is the most important thing at the Nubble. Memorials should not to be included in a public park. Safety, handicapped acceptability, and a residential parking permit should be prioritized. The handicapped parking is currently overgrown with shrubbery. The estimated profit of \$42,000 per year from the gift shop can provide for gradual improvement. The sidewalks should look natural. Torbert Macdonald asked of

the cost of maintaining the lighthouse. Mike Sullivan answered that park and lighthouse routine maintenance comes to \$60,000 to \$80,000 per year. There is some endowment, and capital improvements that bite into larger chunks of money always come up. Tom Manzi said that the lighthouse park should a connection between the community and the loss of life that has washed up on the beach. He believes that the memorials should be reframed to acknowledge those lives, thus serving the historical context that the lighthouse has served. Michael Goodwin said that people don't come to see walks and cement, but rather nature. Leave the memorials out.

Barrie Munro and Torbert Macdonald motioned and seconded to close the Public Hearing. Al Bibb said that the Planning Board is not there to decide about memorials, but rather the traffic flow and public safety. Glenn Farrell said that the memorials are signs, and there is a sign ordinance. Anyway, is this a park or a graveyard without bodies?

Torbert Macdonald motioned to table the application, which Barrie Munro seconded. . Steve Burns returned to the matter of jurisdiction, asking what standards apply to the application, since Article 4.2.2 gives no guidance. Is the matter for Shoreland, Residential, or Site plan review? Barrie Munro said that the Board is interested in drainage and impact, which are Shoreland issues. Steve Burns said that the traffic, including the places where the busses go, has to be determined by site plan ordinances, and should be the decision of the Planning Board.

Mr. Bibb called the vote to table the application, which passed 5-0. There was a five-minute break

Larson Subdivision. 62 U.S. Route One, Map 86/Lots 4, 4A, 4B, and 4G. Final review of 4-lot subdivision.

Steve Burns introduced the application as one that has been before the Board for over a year. Changes include a reconfiguration from three to four lots. The buffers going into the Shoreland resource zone have a 35-ft. setback and buffer. The Planning Board has done a site walk and determined that the high functions and values of the resource would benefit from increased setbacks, however, the Town had not adopted the 100-foot standard, so the Board could not enforce it. There should not be any wetland impact in the future in this area.

Project engineer Ken Wood spoke. He had received Michelle Dion's report and added a note to the plan to limit herbicide application to twice annually. Torbert Macdonald and Barrie Munro motioned and seconded the opening of the Public Hearing. Stan Moody, Conservation Commission, referred to his own file notes which suggested combining two septic systems, which are not 100 feet apart, so they can be treated as a single system for design criteria. The size of the homes cannot be enlarged and continue to be maintained by the systems as they are proposed, a matter that should be addressed in deed restrictions or in plan notes. Tom Fisher read a litany of violations he felt were not yet resolved, including the wetland flood plan area, the never-proven suitability of the land for development, and infringements of Route One zoning requirements. For further review, that document is located in the application file.

Bob Helkowsky, an abutter, said that the applicant has put three leech fields behind his own home, the capacity of which concerns him because the setback has to be located farther away from his property than it is. Also, an extended guardrail is necessary at the entrance, or a car will end up in the brook. He is concerned about the dust from the gravel road. Overall, he feels that the quality of his life will drop when the subdivision is added. Jason Carr of Creation Lane also spoke of his concerns about exactly what vegetation will be removed, noise from I-95 and U.S. One, screening from the new homes, as well as increased neighborhood traffic. He asked the Board to consider adding plan notes to protect large trees, of which there are several. Changes approved at the last hearing did not end up on the plan, to his distress. Barrie Munro and Glenn Farrell moved to close the Public Hearing.

Steve Burns replied to many comments made in the Public Hearing. The removal of the vegetation for the right-of-way is necessary. Not all plan notes are on the plan, because they are condition to approval. All toilets have to be low flow. The Board is not giving a guarantee that there will never be a problem with the septic. The septic systems are not in the wetland. A 250-foot setback structure does not exist. If dust is an issue, then require it be paved. The road opening is 24 feet wide, and the Police Chief has signed off on it. It is okay to cross the wetlands with a driveway. And, there is no development in the flood plane. Then, Al Bibb asked if the road is four feet from the existing septic system? Project engineer Ken Wood answered that the pads are not with four feet of property lines. Mr. Bibb asked about Mr. Moody's septic tank concerns. Steve Burns said that the local plumbing inspector has signed off on what is proposed, which is the standard. Torbert Macdonald asked why herbicide/pesticide use should be allowed at all. Ken Wood replied that it would be acceptable to have an agreement that the owners will not use herbicides or pesticides. Furthermore, there already is a guardrail. An additional one wasn't warranted, but they will put it in, if the Board requires it. Mr. Bibb said he was not sure that he saw a need for it. Dan Remick suggested there be plan notes about pumping the septic every two years and the installation of low-flow toilets. Ken Wood said that three inches of crushed gravel is planned for the road. The applicant will move the fence to Mr. Helkowsky's parcel with no removal of vegetation there. Jason Carr stood and said that he prefers that the road remains gravel.

Barrie Munro moved to approve the application as submitted and as amended to include additions regarding the low-flow plumbing, the extension of the fence, the guardrail, that septic systems is pumped every two years, added vegetation protection along abutters lines, and elimination of herbicide/pesticide application. Glenn Farrell seconded the motion. The motion passed, 3-2, with Mr. Bibb and Mr. Macdonald opposed.

Oak Woods Subdivision, Trafton Street, Map 94/Lot 84. Application for a six-lot subdivision.

Brett Horr introduced by matter by admitting a mistake in the notes, the application being a final review for a six-lot subdivision, not seven. He recommended that preliminary approval be granted.

Mike Livingston put the site plan on the easel, pointing out a few things, including a change in the no-cut buffer on the Tilley property. Barrie Munro and Al Bibb motioned and seconded to open the Public Hearing. Robert Tilley, the co-chairman of the road committee for the area referred to the acceptable changes in the buffer.

Robert Reppucci, an abutter with a well near Trafton Street, said the removal of a ledge, 20-25 feet from his well, is planned. What if his well is damaged? Steve Burns suggested Mr. Reppucci test the quality and quantity of water in the well beforehand. If there is a change, he will be able to go to the applicant. Mr. Reppucci also stated that his lot is built on a corner with beautiful trees, which he does not want cut, if a telephone pole is needed. Mike Livingston affirmed that one pole feeds into Mr. Reppucci's house and has to be moved 10 or 15 feet. Barrie Munro recommended that the developer should confer with Mr. Reppucci about moving the pole without impairing the trees. Glenn Farrell indicated that a note should be added, that it is the applicant's responsibility to see that the electricity is restored without cutting Reppucci's trees. Mr. Reppucci asked about the removal of the ledge and was told that no blasting should be done. Terry McFarland, an abutter, asked if the well test should be current. Mr. Bibb answered that the more so, the better, because if a lawsuit comes up, Mr. McFarland will have to prove to a judge about the well. Mr. McFarland asked if the no-cut zone is enforceable, if it is on the plan. Al Bibb explained that the Code Office would not go out there to inspect. However, cutting should be reported to the Code Office. Barrie Munro and Glenn Farrell motioned and seconded to close the Public Hearing.

Glenn Farrell moved to accept the final plan for review. Barrie Munro seconded the motion, which passed, 5-0.

Torbert Macdonald read a letter into the record from Don Bristow-Carrico. His concerns were that municipal water is accessible within a reasonable distance. He thought a water test should be made, and sidewalks should be included in the development. A letter from George Georges of Stone Ridge Condos asked what effect the new subdivision would have on his property and the wetlands. He also asked if the egress would be interrupted.

Barrie Munro moved to approve the plan as submitted, including changes to the plan notes and the amendment that specifically makes it the applicant's responsibility to see that the electricity is restored to Mr. Reppucci's house without cutting his trees. Glenn Farrell seconded the motion. In discussion, Torbert Macdonald said that bringing municipal water to the property was a poor choice over well water, because the growth to the area has not been significant enough of require such infrastructure. Mr. Bibb called the vote, which passed, 4-1, with Torbert Macdonald opposed.

Torbert Macdonald and Dan Remick motioned and seconded to adjourn. The time was 11:15.