

York Planning Board
Thursday, April 24, 2008, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Glen MacWilliams began the two-hour meeting at 7:00 by determining presence of quorum. Beside Glen MacWilliams, Vice Chairman Tom Manzi, Barrie Munro, Dave Woods, and alternate Todd Frederick were present. Lew Stowe was absent, and Todd Frederick was asked to vote in his place. Town Planner Christine Grimando represented planning department staff. Patience Horton took minutes. The meeting was televised.

Public Input

Open to the public to address any issue other than the scheduled public hearings.

No one came forward to speak.

Field Changes

No one came forward to speak.

Minutes

The Minutes of March 27, 2008 were reviewed. Todd Frederick said the minutes did not reflect his being asked to vote. Otherwise, no changes were necessary.

Motion Barrie Munro moved to accept the March 27, 2008 minutes, as amended. Tom Manzi seconded the motion, which passed 3-0. Barrie Munro, Tom Manzi, and Todd Frederick voted.

Public Hearings

Site Plan and subdivision Regulations §9.3. Amendment to Subdivision Regulations Article 9, Streets, Storm Damage Design and Erosion Control.

Chairman Glen MacWilliams opened the closed the Public Hearing. No one came forward to speak. In discussion, Glen MacWilliams said State law requires one public hearing for an amendment, but the Town of York requires two public hearings. This change will assume consistency with the Town and the York Planning Board. Barrie Munro said after the next public hearing for Reg. §9.3, if no changes are proposed, and the board is in favor, the amendment would become law.

Site Plan and Subdivisoin Regulations §7.3 Amendments to §7.3.1, specifically addressing grading and filling site requirements.

The Public Hearing was opened and closed. No one came forward to speak. The board had no further discussion.

Site Plan and Subdivision Regulations §2.2.4. Amendment to make the number of public hearing required consistent with those required in Zoning Ordinance §18.15.

The public hearing was opened and closed. No one came forward to speak. Community Development Director Steve Burns said the proposed amendments for the current regulations reflect the scope of Planning Board authority. Former selectman Torbert MacDonald had thought it better to have two public hearings for proposed amendments, instead of one, so the public would have more opportunity to speak. The amendment would go forward.

New Business

York Beach Rezoning. Discussion with York Beach Renaissance Committee on zoning changes for the November Referendum.

Dawn Fernald represented the York Beach Renaissance Committee. Christine Grimando said the formerly proposed zoning amendment had not been forwarded to the May, 2008, ballot, perhaps because of the extent of its considerations. The thought of offering the zoning change in incremental pieces, with center zone changes, transition zone changes, and design guidelines as the three increments, might make the changes manageable. Barrie Munro compared the amendment to Comprehensive Plan 10B in its size and difficulty to comprehend. He suggested miscommunication to the public also contributed to failure of York Beach zoning as a referendum item.

As a result of a meeting between the renaissance committee, Steve Burns, and Town Manager Rob Yandow, a joint meeting was proposed for the York Planning Board and York Board of Selectmen. Glen MacWilliams said the board of selectmen requested a positive outcome for the renaissance amendments, which were the result of a great deal of work. Not passing them forward in the past was most likely due to the planning board's failure to create a formal subcommittee that could work through the zoning issues.

Dianne Spear, of the renaissance committee stated that the board of selectmen did not put the zoning change foreword because the planning board had not given unanimous support for it.

Glen MacWilliams said volunteers would make up the membership of the proposed subcommittee. They would take oaths, meet in a public place and meetings would be posted. Christine Grimando said she had found the old planning board subcommittee bylaws, which encompassed public hearings, minutes, and postings of meetings. Glen MacWilliams read along the same lines from the Charter. Barrie Munro added the subcommittee would be subject to the rules and regulations of the State of Maine, as well. Todd Frederick said signing the bylaws would also be part of the subcommittee initiation.

Dave Woods suggested that anybody on a board in York would be biased toward the Town of York. Steve Burns said that was good. He paraphrased *Robert's Rules of Order*: If a goal has been selected, the committee that is formed must be formed in a way that it is unbalanced toward the attainment of that goal.

Barrie Munro said in the establishment of the subcommittee hierarchy, the planning board must defer to the board of selectmen for the priorities and objectives, and the new subcommittee would report to the planning board. Dawn Fernald asked about the differences there are between the old renaissance committee and the new subcommittee. Some renaissance members would volunteer, but not all had to. Members of the subcommittee would respond to public notice. The planning board discussed the number of members the subcommittee should have. Selectman Kinley Gregg said in choosing subcommittee members, three interviews are usually conducted, first by two selectmen, and then a second round with two other selectmen. She recommended a joint meeting, perhaps a workshop, between the two boards sometime in May to finalize the process. Glen MacWilliams said the subcommittee would have to be formed before June 25. He suggested having nine members, which the group went along with.

Affordable Housing. Discussion of affordable housing policy direction for the coming year.

Community Development Director Steve Burns listed affordable housing issues, including policy, rents, and mortgages. When any issue comes up, it brings up more opinions, because it is an emotional issue. It would be good to focus on issues, beginning with a survey of the potential employees who might live there and also the public, in general. Perhaps a graduate student working on an internship could collect the data. Tom Manzi had recently attended a housing workshop where he learned that, statistically, the average household in New Hampshire has .37 child living there, instead of the 2.0 figure commonly used to describe the number of children in an average household. That being the case, the addition to the York school system from a subdivision with 100 units over a five-year period would hardly be noticeable with the addition of affordable housing--only about six or eight children per year.

Steve Burns said there should be an initial policy established before the amendment is brought before the public. Tom Manzi and Todd Frederick volunteered to gather information to assist the board in the initial planning. Steve Burns recommended an upcoming workshop, May 16, called "Small Homes, Small Lots, Great Communities" for the planning board members to attend.

Expansion of Nonconforming Structures. Continued discussion on possible solutions to the consequences of currently allowed expansions of nonconforming structures.

Months earlier, York Code Enforcement Officer Tim DeCoteau had given a workshop about the upward expansion of nonconforming structures on smaller lots in the Beach area, which Christine Grimando was following-up. If the buildings on the smaller lots were to be torn down, at this time, they would be replaced by new, bulky structures. She questioned the current 35-foot height limit. The special exception applications handled through code enforcement might be better handled through the board of appeals, she suggested.

She sketched a possible solution to the roof height based on a point of perspective in the setback from which a line of perspective could determine limits of the tiered rooflines. She said §17.2.1.2(e) of the Subdivision and Site Plan Regulations protect the rights of people to invest in their property. §3.1.2.3.4 allows some bulk increase in a residence. Dave Woods asked about the possible New England Character of a building. Christine Grimando answered that this matter does not trigger design standards. Various other methods were discussed with respect to how to limit the scale and height of non-conforming structures.

Shoreland Zoning Status of Shoreland Zoning Amendments, in anticipation of the November referendum. This item was out of the order of the Agenda.

Steve Burns introduced **Ben McDougal, Shoreland Resource Officer**. Steve Burns showed a map of the Wading Bird and Waterfowl Habitat, which the State had earlier deemed resource protection. Through staff effort, three-quarters of the homes in those areas were later pulled out of that resource protection zone. New Inland Fisheries and Wildlife data again changed the resource designation for eleven wetland areas. Acceptance of those areas as resource protection will stand on the November ballot, after public hearings are held. He also showed an aerial photo with the required, increased setbacks along the York River highlighted. The river setbacks will affect very few houses. Again, another public hearing is necessary, however Board participation is not necessary, he said.

Municipal Capacity. Planning Board input and discussion on working draft of the municipal Capacity charter of the Comprehensive Plan.

Christine Grimando spoke about the completion of the Municipally Capacity Chapter of the Comprehensive Plan Inventory and Analysis, for which Town department heads were interviewed and Town facilities and land easements were taken into consideration. The Chapter is designated for the November Referendum. Todd Frederick suggested including the York Land Trust in the inventory. Tom Manzi thought telecommunications should be included, as should municipal capacity. Glen MacWilliams added function spaces should be added, as they are a component of municipal capacity, as well. Barrie Munro made reference to the existing “Town of York Comprehensive Plan Capital Investment Plan” approved in 1999 that includes capital needs in the context of physical facilities.

Planning Board Bylaws §8. Discussion of Section §8.F. Avoidance of Appearance of Conflict of Interest.

Barrie Munro said the Planning Board Bylaws require any board member with conflict of interest to a given hearing to leave the meeting room. Barrie Munro offered the alternative that the member could take a seat and not return to the board table until the hearing is over. Glen MacWilliams said leaving the room would be most appropriate so non-verbal messages cannot be given. Dave Woods said the Constitutional right to self-

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representation cannot be taken away. “Can’t a member of the board stand before that board in the request to build a house?” he said. Glen MacWilliams replied that objectivity comes before what is personal. The public trust has to be held to a higher standard. As a board member, a person representing him- or herself before the board cannot and uphold the public interest. Nor can that person represent applicant to the board.

Motion Tom Manzi moved to have the board member leave the meeting room when there is a conflict of interest. Todd Frederick seconded the motion, which passed, 4-1, with Dave Woods opposed.

Other Business/Adjourns

In the matter of the expansion of the **Maine Turnpike Authority** tollgate, the board had previously requested a legal opinion about its jurisdiction. Christine Grimando said board jurisdiction does not apply for the MTA according to State Statute Article 5, Municipal Review of State Projects. A meeting between the board of selectmen and the MTA was planned, and many questions would be answered. Tom Manzi felt it is necessary to analyze the possible pollutants like dripping antifreeze and crankcase oil that could be leak into the ground. The lack of information for the public and there being no response from the town attorney added to the frustration around the matter. Glen MacWilliams volunteered to discuss these concerns with Town Manager Rob Yandow.

Motion Todd Frederick moved to have Glen MacWilliams call and discuss the MTA tollbooth situation with Town Manager, Rob Yandow. The motion carried, 5-0.

The group discussed the benefit of conducting a site walk to better understand **Storm Water Management in Area G**, which includes the York’s Wild Kingdom area, the Beach, and the Nubble. The information gathered might lead to expansion of the flood zone with regard to 100-year storms. Obtaining a GIS map and a guide would help in understanding the area, which might have to be covered in three separate sessions, beginning May 5 from the Route 1 end of the Wild Kingdom.

Barrie Munro had seen unusually large deposits of algae in several drainage swales in the Orchard Farm, Winterbrook 1 and York River Farms subdivisions. A recent test of a swale linking Orchard Farm and York River Farms indicated a high concentration of Ecoli Bacteria. He wondered how long a spore might lie dormant considering the fact that all of that area had once been a turkey and pig farm. He suggested having water tested in subdivision locations to determine if there is enough evidence of ecoli bacteria to be a health and safety concern for the Town.

The **Viele/York Public Library** Mylars were signed.

The meeting ended at 10:40