

**TOWN OF YORK PLANNING BOARD
THURSDAY, DECEMBER 12, 2002, 7:00 P.M.
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Chairman Glenn Farrell began the meeting at 7:00. Barrie Munro, Al Bibb, Dave Marshall, and alternates Mike Estes and Dan Remick, who voted in place of absent Torbert Macdonald, attended, as did Town Planner Steve Burns, who represented staff. Patience Horton took the minutes. The meeting was televised.

Minutes Review and approval of draft minutes of the October 24, 2002 meeting.

Barrie Munro said that the sentence from the Hickory Meadows Subdivision summary, "Mrs. [sic] Anderson said that the different details of the scenarios would make up the liabilities," was not understandable, and asked that it be removed from the record. Barrie Munro motioned to accept the minutes as corrected, which passed 4-0 with Mr. Munro, Mr. Bibb, Mr. Marshall, and Mr. Estes voting, all having attended the 10/24 meeting.

Applications

Brenda's Bloomers. Map 10/Lot 4. 1520 U.S. Route One. Public Hearing. Route One Use Permit for the addition of a 10' by 8' lattice storage shed on the back of the existing retail building.

Steve Burns summarized the application, saying that the payment of the fee was required, and the Fire and Police Chiefs' sign-offs were not yet complete. An adequate explanation for a complaint concerning the flea market appearance was available. Applicant Brenda Ellwell-Taylor explained that someone had called the Town to complain about a "flea market" at her store. In truth, she was holding a moving sale for which she had obtained a permit at Town Hall. It was agreed that her explanation was acceptable. Glenn Farrell opened and closed the public hearing. No one spoke to the application.

Al Bibb moved to accept the application. Dave Marshall seconded the motion, which passed 5-0.

Al Bibb moved to approve the application as submitted, granting the waiver request as described in the Steve Burns Memo to the Planning Board of December 6, 2002. Steve Burns recommended that the Police and Fire Chief sign-offs be conditional to the approval, which Mr. Bibb added to the motion. Barrie Munro seconded the motion, which passed 5-0.

York Middle School. Organug Road. Site Plan amendment to modify traffic control measures. Applicant has requested this be tabled to January 9, 2003 Planning Board meeting.

Barrie Munro commented that he had read the preliminary findings and found that the left-hand sight distances toward the Organug Road intersection were substandard. The crosswalk sign in the middle of the road would exacerbate the problem. Drivers

looking down the road would have to pull up to the edge of the paved road, creating a hazard. He referred to Article 8.2.3 of subdivision regulations, which he said the proposed plan did not satisfy. Glenn Farrell asked Mr. Munro to pass the information over to the Police Chief.

Spring Pond Estates Ph. 2. Map 94/Lot 84X. Styles Lane. Public Hearing. Conceptual review for new elderly congregate care facility with 84 units total.

Steve Burns introduced the proposal for a new congregate care facility unrelated to Spring Pond Estates, Phase I. There were Shoreland and drainage controls issues, as well as parking which did not meet the setback requirement. There would be a Wetland impact. The commercial storage units with apartments above did not make sense, with elderly folks living above. He referred to eight issues outlined in his December 4, 2002 Memo to the Planning Board, which included the unresolved Residential Lot Density Standards decision and a letter from abutters Barbara and Leslie Cunningham, concerning drainage. Glenn Farrell also inquired about two single-family houses shown on the plan.

Applicant Walter Woods said that the drainage issue raised by the Cunninghams would be solved with an unblocked drainage easement from Blue Stone Estates. He explained that his brother and another family lived in the two dwellings about which Mr. Farrell had inquired. The setback problems had been corrected. And the storage building was a place for people to store RVs and cars. Glenn Farrell opened the public hearing. Abutter Diane Taylor, whose house was also shown on the plan, said that her property was largely wetland. With the proposed 50-foot buffer strip, which was pointed to on the plan, there would be no space for yards or decks on the new buildings. She was concerned about the impact of drainage into her land. She believed that drainage problems would get worse with the development of Phase II, not only for her, but her neighbors, as well.

Stan Moody, Conservation Commission, said that the clearing of vegetation next to the wetland concerned him. As well, if CMP brought a power line through the easement in the buffer, the buffer would be shot. As well, the area might be laced with chemicals by CMP that could run downstream causing environmental damage. An extra buffer is needed. Pat Mirisola said that when she moved to Spring Pond, Walter Woods told her that Phase II would have 32 homes. Now it is a metropolis. She was concerned about the change in her lifestyle and said there should be accountability. In hindsight, she wished the plans, as they were told to her, were written down and signed. She said that the current community center would not hold many people for joint meetings, as Walter Woods proposed, adding that he was delusional if he thought they would all fit.

Dick Hutchins was concerned about the amount of traffic the assisted care facility would bring with vendor trucks and 16-wheelers carrying equipment. He questioned the residential and commercial use of the storage shed. He stressed that the Wetlands must be protected.

Rita Calnan, who showed her house on the plan, was concerned about the wetlands, because a flowing stream runs 20 feet from her garage. A change in the flow could impact her home and full basement. She did not understand how 84 units could have only one access. She asked what the alternative uses of the property would be, should licensing not come through. Mr. Farrell closed the public hearing.

Barrie Munro said that use is not an issue. Glenn Farrell noted that the Shoreland issues were very important. Steve Burns cited the Article 8.3.2 driveway ordinance

and suggested that one road coming off the cul-de-sac could go directly to the big building. The power line right-of-way through the Shoreland buffer was important to correct. Mr. Farrell said that since there are other alternatives, the setback distance would not need to be reduced.

Steve Burns referred to Section 3b of his December 4, 2002 Memo to the Planning Board, the issue over standards of the Elderly Congregate Housing density vs. the Shoreland Overlay density standards. Glenn Farrell said that the more restrictive ordinance was the one to apply, and that would be the Shoreland standards. Al Bibb agreed. There was discussion about moving the parking area. Dave Marshall brought up the buffer/setback, which would be impossible to leave as is, being as close to the building as proposed. Mr. Burns said that there would be zero room to even lean the ladder up against the building and paint it. Mr. Farrell brought up the storage building with apartments above, saying that neither goes with congregate housing, unless they are built for residents to use. Otherwise, he would rather not see them there. Also, he added, someone during the public hearing said there is not enough room in the existing community center for both phases. Anyway, who owns the community center? he asked. Dave Marshall said that that was a separate project. Barrie Munro said that the condo town houses and the other building are to be owned by a commercial company. He thought Sentry Hill should be used as a model when establishing this project. Mr. Marshall said that 70 proposed residential care units don't look to scale on the plan.

Walter Woods replied that the apartments are not small units. He planned to receive conditional approval and then have a company involved with him professionally develop the business. He clarified that Phase II is an amendment to Phase I, and was not a separate application. The infrastructure, sewer, and water are already in. Steve Burns concurred that the infrastructure is there from Phase I, and Phase II is a separate project. Mr. Woods said that he has always represented to the Phase I buyers that Phase II would occur. The Homeowners' Association would be separate. Barrie Munro asked if it would be independent. Mr. Woods answered, that is correct. Phase II is an amendment to Phase I, that is all. Mr. Munro asked if Mr. Woods could build the first 12 units without a community center. Mr. Woods answered that if he builds the first 12 units, he will want to build a community center at that time. Mr. Farrell asked who would own the community center. Mr. Woods answered, the Association. Meeting rooms will also be part of the 70-unit center. He asked for clarification about the accesses and egresses. The ordinance calls for a 50-ft. buffer with a 35-ft. undisturbed vegetative buffer, he said. Mr. Burns corrected him, reading from Article 10a that requires a 30-ft. buffer retaining a natural vegetative state and a 50-ft setback. Al Bibb said that the second access is not needed until the 70 units are in. Finally, Walter Woods went on to compare the Shoreland density to the standards of York Housing and Sentry Hill, saying that the others got through with Elderly Care Residential Standards, not Shoreland. He did not understand why his had to be Shoreland. Steve Burns explained that in Sentry Hill, only a corner of the property was Shoreland, and that the Housing Authority had Base Zone Standards. Mr. Farrell asked Mr. Burns to put an explanation of the differences in a letter to Mr. Woods.

Twin Lights Subdivision. Map 33/Lots 45 & 52. 18 Beacon Street. Public Hearing. Final review of proposed 7-lot subdivision.

Barrie Munro and Dan Remick motioned and seconded to accept the application, which passed 5-0.

Steve Burns gave an overview of the progress. The landscaping plans and the construction cost estimates had been submitted. There had been faulty notice for the

last hearing, and the notices went out correctly for this evening's meeting. Barrie Munro said that the by-laws of the Homeowners' Association were among the best he had ever read. Mr. Burns said that the plans are in great shape. Nothing has substantially changed. Mr. Farrell opened the public hearing.

Debbie Oberg asked who was going to enforce the covenants of homeowners' association. If the deed restrictions are not involved with the Town Ordinance, why does the Town ask for a copy of deeds and restrictions, and why does the Town care? Mr. Burns answered that since the homeowners have to maintain the road, there have to be assurances that people can use the road in winter. The information pertains to maintenance provisions and how the money is raised to take care of that kind of thing. Mr. Munro explained the requirements of the Association and the fallback on the Town, if the Homeowners' Association would not function. Steve Burns read the plan note about drainage, which said that if the association doesn't maintain the drainage system, including any aspect of the drainage, not just the easement, the town would step in. The seven homeowners would then divide the cost of maintenance, plus 25% and pay the Town. Barrie Munro added that Paul Hollis is responsible for the drainage system for the first five years, and that the homeowners will pay a contractor to examine and repair the drainage system in perpetuity. Speaking specifically into the record, Steve Burns emphasized that the *all* drainage maintenance provision issues, whether part of the engineered system or not, would be included as the responsibility of the homeowners in the covenants. Mr. Bibb suggested that Ms. Oberg obtain a copy of the plan note stating so.

Stan Moody said that a person should not put faith completely in plan notes, that the Appeals Board had thrown some Planning Board plan notes out the window. He said that 8.3.3.1 and 8.3.3.2 require a 25-ft buffer to the wetland, which should be 75 ft. Anyway, it would be 100 feet because it is coastal wetland. He said that a structure as large as the proposed drainage system would fail, and that if it fails, it will fail close to the wetland, would not drain into mud, and what is the point? Plus, large trees can't sit on top of it. Mr. Bibb qualified that the evening before, the Appeals Board worked with an application for which the ordinance changed before the building was built. It was a unique situation and did not involve the practice of throwing plan notes out the window. Steve Burns said that 8.3.3.2 was the correct reference, and that the buffer was correct. Drainage improvements are part of the development and have been approved. It is a permitted use. Stan Moody added that the permitted use is for roads. Barrie Munro referred to Page 435, where a drainage situation was treated similarly to this. Glenn Farrell closed the public hearing. Al Bibb noted that all of the correspondence had been resolved. Steve Burns agreed, adding that the Police Chief was requesting that all plantings and stonewalls must be 10 feet back, for sight distances.

Al Bibb moved to approve the final plan, including the Findings of Fact, with five conditions, four of which were precedent conditions itemized on Page 3 of the Findings of Fact. The fifth condition concerned the Police Chief's request for a 10-ft. sight distance. Barrie Munro seconded the motion. In discussion, it was noted that Items 3 and 4 of the Page 3 conditions had already been met. Mr. Bibb added that a plan showing the proposed landscaping, which complied with the police requirements, had been submitted. The motion passed, 5-0.

Paul Hollis stated that he was working with a strict time line to close on the property. He asked if the Board would sign the Mylar that evening. Steve Burns needed more time for review and said that it would be ready the following morning.

Atlantic House Restoration. Map 22/Lot 44. 2 Beach Street. Public Hearing. Conceptual review for new perspective buyer. Proposed uses to include retail, restaurant, spa, and function hall.

Steve Burns said that the Board had heard a different applicant propose changes to the Atlantic earlier in the year, and this was a different proposal from a different developer, Don Rivers. A letter from William M. Roche had been received. It requested, among other things, the prohibition of a bar in the building, though a liquor license for a restaurant was acceptable. The applicant had requested a conceptual discussion with the primary focus on parking. Whereas the last applicant had wanted to do a hotel with possible apartments, this application was without residences or hotel. He was looking for variation of the parking issue. A historic building conversion could be part of the restoration.

Don Rivers said that there would be no overnight lodging, nor apartments. The first story would be residential, the second, a restaurant, the third would have a spa or retail, and the fourth would be a function hall. He would restore the building exterior and change the windows. However, there was no parking on site, and an exemption would be needed for required parking.

Mr. Farrell opened the public hearing. Kathy Goodwin of the Chamber of Commerce said that all Chamber members were concerned about the property. Restoration would give the best chance of creating a new economy in the area with small businesses and restaurant use. Stan Moody of Cape Neddick said that it would be wonderful to restore Pop's Shell Shack and hoped it wouldn't end up in the same vein the Ocean House took. Don't destroy the historical aspect in the restoration process, he advised. Glenn Farrell reviewed the letter from William Roche, who basically liked the idea, hoped that required off-street parking would be compulsory, showed concern about dumpsters and deliveries, and clearly did not want a bar. Mr. Farrell closed the public hearing.

Steve Burns said that the current occupants were deficient of the 8 required parking spaces for the 1600 sq. ft. of retail space there at that time. The upstairs was vacated, but parking would be needed for the proposed mixed uses, but the applicant was requesting no parking requirements. Could they use valet service (he humorously wondered what the valet drivers do with the cars, envisioning them driving around instead of parking)? One parking space is required for every three seats. The applicant will need to go to the Board of Appeals and ask for a parking variance, because the Planning Board cannot give that. The National Register standards will be applied, if the historic conversion goes through, but nothing will come about, unless the parking gets waived, Steve Burns concluded. Dave Marshall led discussion about whether or not to give direction on other issues than the parking. Mr. Rivers said that how he proceeds depends entirely on how the Appeals Board answers his parking problem.

Jeremiah Campbell Fine Furniture. Map 10/Lot 7B. 1537 U.S. Route One. Public Hearing. Route One Use Permit for an expansion to the existing retail business.

Steve Burns explained the proposed expansion of a major retail space, and how with the applicant wanted to get some conceptual ideas out before the Board. Jim Marchese said that the applicant had come before the Board for a change of use a year ago. The retail use became low volume, and the applicant wished to add on for more showroom area. Glenn Farrell opened the public hearing and closed it again, because no one came forward. Steve Burns wanted to know how much of the building would be seen from the road. Glenn Farrell said that the parking on the lawn is

bad in winter or when it's raining. He said that the buffering on the street side looked better presently than when the building was a restaurant, before. Dan Remick commented that they had done a great job. Richard Ross said that the previous plan called for more buffer, but they were having a problem with 52-ft. trailer trucks, which sometimes back into northern parking lot. He could not imagine needing to park more than six or eight cars at a time, and they currently have thirteen spaces of crushed rock. Glenn Farrell explained that the parking lot size is measured according to the size of the building, which the Board has no control over. Steve Burns said that 15 plus 2 spaces are required. Richard Ross said that the proposed traffic control island is a problem. Glenn Farrell told him to show the Board what they plan to do, including the 15 spaces. Mr. Marchese asked if it would be accepted that night. Glenn Farrell replied that a few things were missing from the application, plus Steve Burns had to review it. Dave Marshall said that they are not in compliance with what they previously requested and to make sure to correct the frontage on Route One.

Other business/Adjourn.

The gentlemen discussed the rewritten ordinance that had failed in the November election. Glenn Farrell said that the problem was with the process, which consisted of volunteers holding public hearings, requests being written up, and ongoing comparison to the Comp Plan. He suggested taking Ordinance 10B and breaking it up into warrant items that make sense, then holding public hearings to cover the information. Increase the budget so it can be sent out as a questionnaire.

Al Bibb suggested combining the efforts of the different committees, including the Planning Board, which wanted to implement Comp Plan items. Add some items not in the Comp Plan. Redo 10B to only what is in the current ordinance, not liberalizing anything, with the zoning districts mentioned in the zoning plan. Modify some of the commercial uses in the zones. Use the most conservative approach. Don't add anything not currently allowed in the zones. Change setbacks and uses back to what was currently there. Put up, zone-by-zone, things in the currently existing Comp Plan. Maybe redo the Comp Plan by making an amendment to it. Form a committee to update and make additions. Have the updating of maps headed by Torbert Macdonald. Selectmen should put together a Comp Plan committee to make amendments. Discuss the formation of the Comp Plan and the process. Change the inventory. Have a committee to work on that. It was too big, too much, and there was too much confusion with it.

Dave Marshall said that the issue was how the Comp Plan was put up for vote and reached objection. The selectmen were standing by how it was done. Is the State going to come in and say that the ordinances are null and void? Steve Burns replied that if you are showing due diligence, you are okay. The zoning ordinance might be at risk. Dave Marshall said that the process should go back to the Planning Board, which should decide what to do next. He agreed with Al Bibb's idea that it should be dealt with in pieces, compartmentalized. He also said that rather than being discouraged, the Board members should see the rejection as part of the process. Mike Estes said that changes should be made in the Comp Plan, that there were issues people did not want to focus on. Dan Remick saw it as a process. Barrie Munro said that he wants the Planning Board to accept responsibility to manage the process, and, in fact, maybe they should have accepted more responsibility earlier. He had reviewed the 1982 and the 1991 documents. Public deliberation should begin right after the first of the year, he said, and then asked how to bring ordinances in compliance with the Comp Plan. Glenn Farrell wondered if the ordinance should be in compliance with the Comp Plan, or with the people. Al Bibb stated again the importance of changing uses in zones. Glenn Farrell emphasized that the resource inven-

tory should be updated. Barrie Munro said that the Planning Board needs the support of the Planning and Ordinance Committee. Steve Burns said that special ordinances were going to the vote in May. Dave Marshall thought that perhaps something would be ready by then. Steve Burns said, no need to rush.

Barrie Munro moved that the Planning Board, by reason of the State mandate, would take on the responsibility of bringing the Town Ordinances in compliance with the Comp Plan. Dave Marshall seconded. It passed, 6-0, with both alternates included in the vote. The meeting adjourned.