

**TOWN OF YORK PLANNING BOARD
THURSDAY, SEPTEMBER 8, 2005, 7:00 PM
YORK PUBLIC LIBRARY**

Apologizing for the late beginning caused by last-minute submittals, Chairman Barrie Munro began the meeting at 7:10. Glenn Farrell, Barrie Munro, Richard Smith, Tom Manzi, and alternate Michelle Moody were present. Due to a prior appointment, Lee Corbin arrived at 9:15. Michelle Moody voted in place of Glen MacWilliams, who was absent. Town Planner Steve Burns represented staff. Patience Horton took minutes. The chairman began by introducing the members of the board and the staff.

Barrie Munro put limits on the times allotted for the agenda items. He said that application reviews not complete by their assigned cut-off times would be tabled to the next meeting. J&B LLC would have to be complete by 8:00. Fiandaca Amendment would have to be finished by 8:30, Sparhawk Subdivision, by 9:15, and Anchorage Motel by 10:00, leaving York Housing Authority the last half hour. He explained that the Planning Board does not want to have to make decisions past 10:30. He also asked for no redundant comments during the public hearings.

Presentation on Proposed Cluster Development Provisions

The Planning Board will make a 10-minute presentation to the public to explain the proposed Zoning amendments dealing with Cluster Housing Provisions for wetlands protection.

Michelle Moody went over the basics of the proposed Wetland Protective Incentive for Cluster Subdivisions, which affects the RES-7 Zone. It would allow density credits to be transferred for building on suitable land, elsewhere. The credit would be earned when fifty percent or more of a lot is wetland, or it is unbuildable either because of wetland or because of setbacks. The amendment is designed for people who have held onto wetland property for a while. She described the limits of the incentive. The added credits cannot increase the size of the cluster by more than 20%.

Public Input

Open to the public to address any issue other than issues scheduled for public hearing on this agenda.

The Public Input was opened and closed. No one came forward to speak.

Minutes

Review and approval of draft minutes

As a courtesy to the sizable audience, the chairman moved the Minutes to the end of the meeting.

Applications

J&B LLC. 764 U.S. Route One. Map 94/Lot 16V. Public Hearing. Request for conceptual discussion regarding a Route One Use Permit to construct a 4-unit commercial building. Follow-up discussion about the site visit.

Town Planner Steve Burns said that this site is directly opposite Wild Willy's Burgers on Route 1. The first conceptual discussion with the Planning Board occurred on August 11, 2005. Representing the applicant, engineer Mike Livingston described the proposed commercial building. Discussion with the neighbor to the south about a combined curb cut had not progressed, he said. He showed a plan with a profile of the building and a cross section of the grade change requiring 12 to 14 feet of excavation in the back. Fill would be necessary in the front. The entrance at Route 1 would have a maximum of a 2% slope. Structuring the travel way for one-way traffic could reduce its width. If ledge were ultimately encountered in the back, a steeper slope would be allowed. There is a legal question about the location of the required (by deed) 50-foot buffer. It might be on the subdivision and not this commercial property. He was not sure. The building could be shifted, if it has to be.

Michelle Moody said that Tom Manzi, Michelle Moody, Richard Smith, and Barrie Munro had attended the site walk with Mike Livingston immediately before this meeting.

The chairman opened the Public Hearing. Abutter Patty Gregoire succinctly stated her concern that trees should not come down, as she hears car noise already and doesn't want to hear any more. The chairman closed the Public Hearing. He explained to the audience that anything discussed at this point in this matter is not necessarily binding.

Barrie Munro asked Mike Livingston to get clarification about the legal interpretation of the buffer, whether it is 50 or 30 feet in length. Steve Burns said that since the abutting property directly to the north on Route 1 had not had commercial use for more than two years, it is considered residential. Barrie Munro said that the applicant has to come forth with clarification about the driveway slope at the curb cut. He has to minimize changes of elevation and soil disturbance, considering the large amount of ground that has to be moved to accommodate the building and particularly the parking lot. The Planning Board, he said, will have very little leverage with respect to the preservation of the landscape. Michelle Moody added that she hoped the applicant would not have paved parking in front. That would eliminate pavement. Mike Livingston said he would look into it.

The hearing ended at 7:35. The Chairman had allowed it to go to 8:00.

Fiandaca Amendment. 17 Garrison Ave. Map 38/Lot 49. Public Hearing. Request to amend a plan note on an approved Subdivision Plan.

Chairman Barrie Munro opened the Public Hearing. Attorney Jeff Clark, representing the applicant, said that the Fiandacas have owned the property for 55 years. They are responding to the changing nature of the Beach with a proposed condo plan to remove their eight seasonal cottages and build five year-round dwellings. A note on the final plan requires that at the commencement of the work, all eight of the cottages have to be removed. Addressing that note, he asked that the cottages be removed gradually over the three-to-five years it takes for the growth ordinance to unfold, because the income from the property is needed. There is approximately \$10,000 in real estate taxes annually. As each building permit becomes available, the Fiandacas wish to remove two cottages. With the fourth permit, all the cottages will be removed. Jeff Clark described the seasonal cottages as neat and clean in appearance, though sparsely landscaped.

The Public Hearing was opened and closed. No one came forward to speak.

Town Planner Steve Burns said that he had received calls from three or four abutters who had mixed feelings about whether or not they approved. Glenn Farrell read a letter received from Maureen (Meegan) Harrod, who wanted all the cottages removed before new construction begins because she considered the cottages an eyesore, “unkempt due to the transient nature of cottages.” Glenn Farrell commented that on the flip side, it is too much of a cost-prohibitive burden to knock them all down at once. Michelle Moody said that she felt that anyone buying the new, expensive homes would not like looking at the seasonal cottages. Barrie Munro said that economics was not something the board should have to consider. Attorney Jeff Clark said that the applicant would like to have the flexibility about when to tear them down. Glenn Farrell said that no one is going to want to rent cottages when hammering next-door starts at 7:00 a.m.

Glenn Farrell suggested that there should be a time limit for tearing down the cottages. When construction starts, the applicant should have “x” amount of time to pull out the others. Applicant Jay Fiandaca said that he is only allowed to build three homes at one time and that there is a balance between growth- and seasonal-permits. He said that a three-year period would be a fair amount of time for completing the teardown. Barrie Munro brought up the board’s priority of satisfying the public. He referred to the original decision about the plan note and the board’s concern for the feelings of the abutters at that time. Jay Fiandaca described his father’s building the cottages 50 years ago, the family’s love of the property, the loss of his father last year, his mother’s age (83), her health problems, and her ongoing attachment to the property.

Motion Glenn Farrell moved to amend the plan note on the final plan so it states that three years after the construction of the first building, all the cottages have to be torn down. Richard Smith seconded the motion.

In discussion, the board talked about whether to make the building permit or the occupancy permit the trigger to begin three-year period. Attorney Jeff Clark said that applicant would prefer the occupancy permit as the start of the three years period. Tom Manzi asked if there should be an amendment to the motion. Barrie Munro said it was not nec-

essary. The construction of the first building would be determined by issuance of the occupancy permit.

Vote The motion passed, 5-0.

Steve Burns said that the plan note change should be signed by the Planning Board and recorded in the registry. Jeff Clark said he would take care of it.

The Hearing ended at 8:00. The chairman had originally allowed it to go to 8:30.

Sparhawk Subdivision. 31 Western Point Road and 10 Sparhawk Way. May 70/Lot 5 and Map 7/Lot 1. Public Hearing. Application for Final Approval of a 7-lot subdivision.

Bill Anderson of Anderson Livingston Engineering said most changes with respect to the September 2, 2005 memo from Steve Burns had been made. Most notes had been incorporated onto the note pages. The Kendall Buffer was still an issue. Driveways had been added to the plan. A swale and a stonewall were going to be moved. Roadside vegetation had to be removed for sight distance, and some of the land will be deeded to the town because of that sight distance. He said Public Works director Bill Bray was concerned about possible damage to the Western Point Road caused by construction equipment. The subdivision road has been named Harborside Drive, and the lots have been numbered.

Barrie Munro brought up the engineer's certifications of compliance. Misrepresentation would put a person's license in jeopardy. Michelle Moody said that the board would report the person to State licensing. Steve Burns said that the Town inspection engineer would still be checking on the applicant's engineer.

Steve Burns brought up culverts, repairs for roadwork, and waterlines. He said that some sites do not meet road acceptance standard and referred to a September 8, 2005 letter from Eric Weinrieb at Altus Engineering. Bill Anderson said that there has to be a ledge cut on the first section of the road. "Three-to-one" road construction standards will be met.

The Public Hearing was opened. No one came forward. The Public Hearing was closed.

Motion Glenn Farrell moved to accept the application as complete for final review. Richard Smith seconded the motion, which passed, 5-0.

Glenn Farrell asked Bill Anderson about the 50- or 30-foot buffers to the Kendall property line. Attorney Nick Strater pointed out the nearby house where he grew up, saying that he knows the land and area very well. He was representing the applicant. Mrs. Kendall does not want to see houses, he said, especially from her kitchen window, which faces the Sparhawk property. The builder agreed to a 50-foot buffer, so she will not see

any houses. There will be 200 feet between her structure and the building envelope. There are limits to where houses can be placed, because of the ledge. Plantings cannot go into that area near the Kendall property. A person would have to blast holes in the ledge and plant things in the holes. Vegetation is growing up through the fissures in the ledge. Barrie Munro said that with a 50-foot buffer, the person who buys that lot might not be able to cut within 20 feet of the property line.

Blasting was discussed. To document the effects blasting might have on the Kendall's well, the seismographic information will be provided to the Kendalls. Nick Strater said that the blasters would do a flow study so they know what is there, before and after the blasting. The Kendalls would demand Town water as a result of well failure, which the applicant would be responsible to connect. Michelle Moody asked about the septic site and the house site for Lot 2. Other details such as final occupancy permit, and certification of completion were discussed.

Motion Tom Manzi moved to approve the application pending satisfaction of three Conditions Precedent: obtaining all State permits; changing the plan note so that anytime there is blasting anywhere within the subdivision, resulting seismographic data will be provided to the Kendall Trust; and amendment of the plan to comply with Bill Bray's September 5, 2005 memo. Glenn Farrell seconded the motion, which passed, 5-0.

The time was 8:40. The allowable time had been until 9:15. There was a short break.

Anchorage Motel, 269 Long Beach Ave, Map 36/Lot 96A. Public Hearing. Final Review of a Site Plan application to raze the existing house and construct a new hotel.

The large audience had come for this hearing. Barrie Munro stated that there would be no automobile or construction traffic on Mitchell Road. He said that drainage revision would require that no drainage would be directed toward the rear of the property, where the homes are.

Applicant Attorney Peggy McGehee introduced Anchorage owner, Mr. Ramsey, and the engineering team of Bill Anderson and Mike Livingston. She apologized to the public that the earlier landscaping plan had made it appear that Mitchell Road would be closed off. She showed a plan that made the right-of-way location clear. The brush has been cut back to 40 inches, since the last hearing (August 11, 2005). She had delivered notebooks of information to all board members, and she pointed out some of the contents. She read Note 8, which said that Mitchell Road would be passable during construction. There were 37 conditions in the plan notes. She pointed out a letter from Anderson Livingston describing how the drainage will meet Town standards. She showed proof that the applicant has the financial capacity to finish the job. The Historical District Commission had indicated they have no problem with the project. The size of the ROW is 12 feet, and that goes back to the original deed.

Steve Burns had informed her of four issues to be addressed, Peggy McGehee continued. One was that the York Beach Fire Chief said there should be an opportunity to turn a fire truck onto Mitchell Road, as well as into the far end entrance, and if they missed those, onto new fire lane created over a reinforced, grassy area. That area would be permeable using Duragreen pavers. The specs on the pavers had been handed out to the board. The fire lane would have to meet the satisfaction of the York Beach Fire Chief. Also, she said, Steve Burns was concerned about the proposed underground parking. She held up a diagram, pointing out that supporting columns will not confine the parking spaces. One area will be designated for compact cars, only. She addressed Mitchell Road, again. The Planning Office had received many letters from abutters about its closure during construction. She said that for safety, it might only be very temporarily blocked or narrowed, but that was all. The applicant would not pile snow on the ROW, as once suggested. About the final item, drainage, Peggy McGehee had a memo from Public Works director Bill Bray requiring all drainage from the property to be directed to the drainage system on Route 1A. Mike Livingston said he had no problem redirecting drainage to Rte 1A.

(Planning Board member Lee Corbin came in at about this point.)

Peggy McGehee said that the project would be in compliance with the September 6, 2005 letter from Bill Bray as well as with the letter from the Fire Chief dated May 2005. She directed everyone's attention to a June 28, 1911 Deed, where the right-of-way was described as 12 feet wide. Confusion that the ROW should be 20 feet stems from a 1963 deed. That deed refers to land that is not on the annex property. It is on a different lot. She pointed out the different lot on a plan depicting the lots that comprise the Anchorage property in different colors. She explained that the rights-of-way merge as the parcels are purchased and merged.

Chairman Barrie Munro opened the Public Hearing. He held up 52 pages of letters and information received by Town Planner Steve Burns from the abutters.

Paul Robinson of 14 Mitchell Road said that if access to Mitchell Road were interrupted, the 130 properties in the area with a combined valuation of about \$40 million would become at financial risk.

Richard Patton of 23 Mitchell Road said that he had only be notified of this hearing, and should have been notified about the application from the start, which was September 2, 2004. He said his legal rights have been prejudiced and all action should be rescinded, null and void, because of untimely notice to the abutters and him. Steve Burns replied that the Planning Office is only required to notify immediate abutters. He listed off the small handful of immediate abutters. Last November, he continued, his office notified everyone within 100 feet. For the August notification, the list was expanded to everyone with 200 feet of the property. Now, for this hearing, his office had notified everyone between the property and Ridge Road. "We sent out the legally required notices," he concluded.

Connie Farrell said that traffic must not go onto Mitchell Road. It cannot be an egress from the motel parking lots. There cannot be delivery trucks. Bill Anderson replied that the only proposed use of Mitchell Road is for pedestrian traffic, including guests from the new hotel, plus fire trucks.

York Beach Fire Chief Dave Bridges qualified that the third entrance would not be there in the event that the fire truck driver misses the first two entrances, as described earlier. The third entrance will be a fire road with accessibility to all the buildings. He said he was willing to try the permeable surface pavers.

Barrie Munro asked Bill Anderson if Mitchell Road would be moved. The answer was no. He asked about paving it. Bill Anderson said that the front will be widened for the fire truck, but the rest of the road will stay as it is. Richard Smith asked who would maintain the road. Peggy McGehee said that by property law, the landowner does not obstruct the right-of-way. The people who have the right to the easement can maintain it.

Abutter Bob Duchesne got a laugh calling his property "Little New Orleans" referring to flooding from recent Hurricane Katrina. He asked if there would be public approval of the new drainage system. Glenn Farrell answered that it would be engineered and approved through the public works department. Barrie Munro reiterated that there would be no drainage to the north.

Mike Walters said that he had spent the prior Saturday going over the plan. It showed Mitchell Road being blocked during construction. The drainage section made no reference to Mitchell Road. At the last meeting, he continued, it was indicated Mitchell Road would be moved into the 12-foot right-of-way, that it wasn't really there. Now it is going to stay as it is. He offered pictures of the roadway, showing how expensive vegetation would have to be moved. He said he wanted Mitchell Road to stay in its current location. Glenn Farrell said that a plan note should be made that Mitchell Road will stay in its current location. Barrie Munro instructed Bill Anderson to give Mike Walters a revised plan. Looking at the clock, Chairman Barrie Munro prepared to close the public hearing.

Louise Zambame asked if she could speak. She said she was handicapped, and there had been two instances where trucks closed off Mitchell Road because they were parked in the ROW while people worked on the house on the corner. She said neither an ambulance nor a fire rescue truck could not have gotten to her because of the combined workers plus flooding on the other side. Peggy McGehee answered that there is a plan note indicating that there will always be access to Route 1A across the Anchorage property.

Steve Burns asked if a site visit were in order. Barrie Munro answered yes, and he invited the public to attend. Steve Burns set up Saturday, October 1, at 9:00 A.M. He asked for a new set of plans by September 23, and said he would be leaving one set in the Library. Barrie Munro told the audience that he appreciated everyone and their concern.

Motion. Michelle Moody moved to continue the Anchorage Motel hearing to October 13, 2005, and to limit the Public Hearing and items not previously reviewed to 10 minutes. Glenn Farrell seconded the motion, which passed, 5-0.

The time was 10:00. The meeting was on schedule.

York Housing Authority/Village Woods Phase 3, Pine Grove Lane. Map44/Lot 50. Public Hearing. Site Plan & Subdivision application for a 28-unit building for senior housing.

Steve Burns had handed out the Review and Findings of Fact dated September 2, 2005, with recommended approval.

Patricia Martine, Director of York Housing Authority, said that the third phase of the elderly housing development with 28 units was being presented. She said that two prior phases have a nice relationship with their neighbors. Altus Engineering was also present for a presentation and questions. She said she was hoping for approval of the application.

The Public Hearing was voted opened and closed. No one came forward.

Explanation of the rendering was considered unnecessary, because there were no issues.

Motion Michelle Moody moved to accept the application as complete. Glenn Farrell seconded the motion, which passed, 5-0.

Waivers were briefly discussed. Steve Burns had recommended approval of the waiver requests in his memo.

Motion Michelle Moody moved to grant Waiver Requests §6.3.2 **Boundary Survey Plan**, §6.3.3, **Existing Conditions Plan**, §6.3.14 **Historic Resources**, §6.3.33 **Traffic Study**, and §6.4.7 **Impact Study**. Tom Manzi seconded the motion, which passed 5-0.

Steve Burns reviewed the standard Conditions Precedent. The Condition Subsequent said that the applicant would reimburse the Planning Department of its costs, if any occur. He commented that, since the Housing Authority is an extension of the Town, there was no application fee.

Motion. Richard Smith moved to approve the application as submitted with the Conditions Precedent and the attending Findings of Fact. Glenn Farrell seconded the motion, which passed, 5-0.

Minutes

Review and approval of draft minutes

1) The Minutes of July 21, 2005, were reviewed. Michelle Moody pointed out non-substantive corrections on Page 6.

Motion Barrie Munro moved to accept the Minutes as written as amended. Richard Smith seconded the motion, which passed 5-0.

2) The August 11, 2005 Minutes were reviewed. Michelle Moody made minor line corrections.

Motion Michelle Moody moved to approve the August 11, 2005 Minutes with minor corrections. Glenn Farrell seconded the motion, which passed, 5-0

3) The August 25, 2005 Minutes were reviewed. Michelle Moody made non-substantive changes to clarify comments she had made about the Housing and Growth Ordinance in Wells.

Glenn Farrell did not vote at the August 25 meeting. Barrie Munro asked Lee Corbin to vote in his place on the Minutes.

Motion Michelle Moody moved to accept the August 25, 2005 Minutes as amended. Richard Smith seconded the motion, which passed, 5-0.

Other Business/Adjourn

A Memo had been received from Planning Board member Glen MacWilliams about Occupancy Permits. He was concerned over the possibility that an applicant or professional might refuse to certify his or her work, raising subsequent liability. An issue around boilerplate language was also mentioned. Steve Burns was asked to send the memo out to everyone on the board.

Steve Burns handed out the September 22 agenda, including the remanded Meadowbrook Plaza LLC (donuts). A September 29 meeting has been added to the agenda to accommodate September's workshop.

The meeting adjourned at 10:30, as scheduled.