

York Planning Board
Thursday, February 20, 2014, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum

Chairman Todd Frederick called the meeting to order at 7:00. A quorum was determined with five people voting: Chairman Todd Frederick; Vice Chairman Al Cotton, Jr.; Board Secretary Lew Stowe; and alternates Peter Smith and Amy Phalon. It was Amy Phalon's first meeting. Brud Weger was absent. Contract Planners Lee Jay Feldman and Steve Bradstreet represented staff. Patience Horton wrote minutes by reviewing the online streaming. She was not notified of the meeting.

Last summer the York Planning Board hired a planning firm to review this application. Lee Jay Feldman, the contract planner, is with Southern Maine Planning and Development Commission. He is substituting for the town planner. Steve Bradstreet of Ransom Engineering is the contract engineer.

Andrew Johnston, a senior civil engineer with SMRT Engineering, is the project, or applicant, representative. The applicant is the Town of York, Maine.

Public Input

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

Torbert Macdonald spoke as a citizen. He requested that the public hearing be conducted before the applicant's presentation.

Field Changes

There were no field changes.

Minutes

There were no minutes to review.

Town of York Police Station, 414 Ridge Road, Map & Lot 0094-0077, Sketch review of a previously approved site plan coming back before the Planning Board for a new review of a revised plan.

Chairman Todd Frederick explained that Site Plan and Subdivision Regulations Article 6 and 6.1 allow an applicant to come to the board with a sketch concept of what is being proposed and receive non-binding feedback from the Planning Board. He said as part of the effort to maintain transparency with this application, all information regarding this application is continually updated on the Town website.

Contract planner Lee Jay Feldman introduced the application. The police station project is an 18,000 square foot building with LEED silver environmental standards. It will have

75 parking spaces and a cell communications tower. The tower is a new addition to the plan. A new town road is being proposed between Ridge Road and U.S. Route One.

He read Article 5.6.5.1. Under final approval, no plan shall be approved by the Planning Board as long as there are violations of the provisions of a plan that was previously approved by the Planning Board and turned the meeting over to Lee Jay. Lee Jay read the objectives and reviewed his contract costs. He explained the “process.”

Project representative Andrew Johnston, senior civil engineer with SMRT Engineering, has been assisting the Town with site, architect, and design aspects of the project from the beginning. This is to be approached as a new project. The history of the project began in 2006, when the Town was searching for a location for a new, greatly needed, police station. In 2010, a location was established and SMRT was contracted to create a concept plan and concept budget for the building. In 2011, two referendum votes passed, one for the police station and one for the road to connect York Beach with Route One. Likewise, SMRT worked on two aspects of the design, the building and the road.

Andrew Johnston continued. The connector road runs through several zones, including Route 1-4 to the west, GEN-3 in the middle and the south, and RES 7. It also runs through shoreland and wetland zones. There are vernal pools along the way.

State and Federal permitting is driven by minimizing the natural resource impact on wetlands and vernal pools, he said. They must have a special approach because they are resource habitat. Buffer areas around vernal pools are measured and impacts are calculated by two different agencies, DEP and Army Corps of Engineers. The planned road crosses wetlands at minimal impact points and navigates around vernal buffers cover as best as possible.

Maintenance of wetlands and respect of the forested cover of the vernal pools are the driving force behind the road design.

The plan requires a flood plain hazard permit. The Cragen parcel has to be “swapped” with nearby town property so the road will access Ridge Road without crossing a wetland.

The original sketch plan was in August 2011, Mr. Johnston continued. The application communications went back and forth to DEP and Army Corps continually throughout 2012. Final Planning Board approval was in given in August, 2012. Soon after that, there was unauthorized clearing for the roadway, causing state and local violations.

On the site plan, Andrew Johnston pointed out locations of the damaged areas. The Army Corps jurisdictional vernal pools near the proposed police station were spoiled when the equipment cut an unplanned swath near there. Neither was there permitting for trees that were cut and stockpiled there. An area near the Blinn house near Route One was illegally cleared to make a stockpile of soil to be used for building the road. DEP was concerned about the stormwater buffer along the road.

On August 17, the Town Code Office issued a violation to the Shoreland zone, which triggered a halt to the work. To restore these areas, some work was done immediately while long-range plans were developed for other areas. There are no permits for moving the rock and soil piles near the police station site. This will require a local permit.

DEP and Army Corps have Okayed the corrected plan. Code Enforcement sees the plan as a restoration plan. The permits from DEP and Army Corps allow continuation. The restoration plan accommodates the communications tower. Therefore site plan § 5.5.1, is the provision dealing with outstanding violations, as Todd mentioned. It indicates that you can't go forward with work until the violation is addressed. In this case, restoration is how the violation is treated, by which it is possible to return to the construction of the project.

It will be necessary to have a wetland permit for wetland impacts on the road in the right of way. A flood hazard permit is needed for the crossing of the flood plain. We will need a shoreland permit because work will be done within the shoreland zone.

The original budget was \$8.4 million. The estimated amount spent to date is estimate of \$2 million. Leaving \$6.4 million in the budget. Mr. Johnston concluded his presentation.

Public Hearing

The chairman opened the public hearing. **Torbert Macdonald** represented himself. The Municipal Building Committee had undertaken joining the connector road to the Wild Kingdom Road, but during their March 28, 2012, meeting, they decided unanimously that splicing the roads together would not be pursued.

The impact of this action on the abutters who live in the Rogers Road Area, where the Blinn land has been cleared and grubbed without a timber-harvesting permit, should be of highest concern to the board. No restoration work is proposed for the Blinn property, and it should be addressed with the highest priority.

Glenn MacWilliams responded to the sketch plans narrative produced by SMRT, at times criticizing the statements in the narrative. The police station and the connector road were not approved at the same time. The construction work on the connector road was not commenced prior to getting the Planning Board permit, which is a violation of the ordinance. Only some of the violations have been dealt with, and at what cost to the Town? Who is paying for the restoration plan and why? What are the issues surrounding the wetland violations? Does the Planning Board have adequate time to address the subjects? "*Can we make this more difficult?*" he asked. How can this review be transparent when there is no cable access?

Chairman Todd Frederick closed the public hearing. In board discussion, Lew Stowe asked if the Town has a broader representative than Andrew Johnston. Mr. Johnston answered that he is only responsible for site plans and technical and design issues. His di-

rection comes from the Town Manager. Input by Selectmen or the Building Committee come to him through the Town Manager, too.

Al Cotton asked, who is in charge of the project? Peter Smith asked for clarification of our role as members of the Planning Board. Isn't it other agencies responsibility to deal with violations?

Lew Stowe said that it is important to have one person in charge. There are people who have qualifications to lead the project who work for the Town Manager. Steve Burns is an environmental expert. He works for the Town Manager. Dean Lessard does also. Dean Lessard knows about building roads. Lew Stowe asked why they are not representing the applicant.

Planner Lee Jay Feldman said that, there are substantive areas, like the wetlands and the vernal pools, where a third-party inspector would be hired as the clerk of the works. That person would not be responsible to either the developer or the Planning Board. Their responsibility would be to ensure that the project is build as the plan was approved. We may need to take current land conditions into account of the new plan.

Todd Frederick explained why the violations have come back to the board. There was a prior plan for a police station/connector road that was approved by the Planning Board with conditions attached. The applicant went outside the conditions, which caused violations, which caused the applicant to return to the Planning Board to address them. The Planning Board rescinded all authorization. Everything stopped. The applicant, the Town, has come back with a new plan. It is a brand new application that will ultimately include the correction. This is a new application, because we are starting where we are, today.

Lew Stowe referred to an August 2012 presentation by Steve Burns about the violations cited by the Town. Eighty percent of the Town violations duplicated what DEP had violations. The remaining twenty percent were the Town's violations standing alone. The violations had to do with wetland crossings that had been "lost." They did not come out in DEP violations. A town ordinances can be stricter than DEP is, Lew concluded.

Todd Frederick asked if there is a written violation. Mr. Feldman read from Mr. Burns's August 30, 2012 letter. The work at the police station and connector road has violated Town zoning and State and Federal permitting. Code enforcement officers had visited the site and found un-permitted work, as well, in the shoreland overlay district, just west of the proposed new police station.

Mr. Frederick said it's important to know if there are violations of the York Zoning Ordinance, as noted in Art. 5.5.1 of the Site Plan and Subdivision Regulations. The stockpile in the area of the police station is a violation. There are two other applications before the Planning Board, the Bog Road athletic fields and the bathhouse at Long Sands. The expansion at Sohier Park might be in that category, too. The problem is that those are applications we might not be able to approve with this outstanding violation.

Lew Stowe said the board didn't get involved directly with the DEP review process and received no information about its status. We went through Preliminary and Final, he said, and DEP wasn't finished until the last two weeks. This time let's make sure we know up front what the communication with DEP is.

Andrew Johnston Andrew said all the applications and responses were copied to the town office. The original DEP permit, which is the site location permit for the project, was issued in July, 2012, one month before the Planning Board issued the final approval. Looking at the restoration plan the board member had received in their package, he said the plan is in response to the DEP and Army Corps violations. Those plans are used in order to restore those impacted areas by DEP and Army Corps regulations.

The Chairman returned to Lee Jay Feldman's letter dated January 30, 2014, covering information the board should have as a basis going forward.

- 1) Are we comfortable with the knowledge of how we got where we are today? The general consensus was yes, Todd said. The board understood the history of the project.
- 2) Was it understood that the restoration plan and the amended DEP permits allow the work being done now? This item drew no further discussion, he said.
- 3) Amy Phalon asked for clarification of the boundary dispute. What impact does the boundary dispute have if it doesn't come out favorably? Andrew answered, "None." That is a civil matter and has nothing to do with where the construction is planned. The Cragen property swap is a matter of requiring a stamped survey for preliminary review.
- 4) Andrew Johnston said the items being reviewed include a wetland crossing and a stormwater buffer that weren't pinned at the site. They are referenced in the DEP Violation and Restoration Plan. A condition of the DEP permit is that they'd be pinned at the site, and they weren't prior to construction. "That is something we'll be careful with this time around," he said.
- 5) Todd Frederick said, regarding contractors' fees, the applicant has reserved \$12 thousand at this time, and the entire contract totals \$31,690. "The balance of \$19,690 is coming from "somewhere," Todd said, "but we don't know where."
- 6) The last topic is meeting location. The meetings must take place here, in the televised boardroom, even though availability is scarce until June 20. We will do what it takes to set a schedule and keep the public informed. All information will be posted on the website.

Andrew Johnston said the reason the Army Corps and DEP have not required all violations to be cleared before moving ahead, is because moving the materials in order to restore the wetlands is an exorbitant cost. Moving the stockpiles back and forth would cost hundreds of thousands of dollars. The DEP and Army Corps have been flexible in their approach to the restoration, including the dates where restoration was supposed to have taken place last year. Sooner or later it will come to the point where they have to see the restoration occur.

Lew Stowe said he considered the police station as a non-item. The police station can be built now, but the roadway is still going to be a big issue. Andrew Johnston said he didn't know if a police station could be constructed on the site without a permit.

Todd Frederick worked his way through another punch list.

- We are not looking at Site Plan and Subdivision Regs because there is no subdivision on the property.
- Why are we not hearing anything about the communication tower pad? Andrew Johnston replied that the Selectmen approve it, in this case. The cell tower is exempt from the wireless communications ordinance because it is Town-owned and it doesn't fall under site plan review, but it will be on the plan.
- There will be a site walk in the spring.
- The applicant will produce an organizational chart for the board.
- Lew Stowe said the public should know the Blinn property is not up for sale and is not part of the project.
- We are accepting the application as a single application, said Todd Frederick. It is not being split.
- Lew Stowe said not to forget "My monuments." There are certain ones that can go into place to certify what the survey is saying.
- Peter Smith said that a condition of the contract written with the contract planners, Lee Jay and Steve, is that they must give out copies of every communication and put them on the town website.

Lew Stowe said the Route One traffic light was never approved. There are people who think this is a police road, a \$1.2 million driveway for the police station. Lee Jay told Lew that the matter of placing the traffic light would be up to a traffic engineer.

Lew said he had read about replanting at the Blinn house. Andrew Johnston said the DEP and Army Corps restoration plan centers in on the area right around the police station. Their position is that there are no violations in the area behind the Blinn property. They have no concerns with what's dumped back there. Those are Town violations.

Town Manager Rob Yandow came to the podium to make a few clarifications. The Selectmen will approve (or not) the additional funding of \$19 thousand for the contract planners during the upcoming Monday night meeting. A request has been made for a restoration deadline date from the Army Corps. He certified that Andrew Johnston is the project representative.

Adjourn

The meeting ended at 9:30.