

**York Planning Board**  
**Thursday, June 25, 2009, 7:00 P.M.**  
**York Public Library**

**Call to Order, Determination of Presence of Quorum**

Planning Board Chairman Tom Manzi returned to the Board after two month's leave. He introduced everyone with a fond comment about each. The full quorum consisted of Tom Manzi, Vice Chair Lew Stowe, Barrie Munro, Glen MacWilliams, Dave Woods, and alternate Todd Frederick. He included the television technician, Arthur Minor. It was Glen MacWilliams's final meeting after serving the Town on this Board for six years. Glen MacWilliams planned to continue his practice as a certified architect. Assistant to the Town Manager, Kathryn Danylik, Shoreland Resource Officer Ben McDougal, and Community Development Director Steve Burns attended the meeting to give presentations. Kinley Gregg attended on behalf of the Board of Selectmen. Town Planner Christine Grimando represented the planning department staff. Patience Horton recorded minutes, which were edited by Todd Frederick. This workshop meeting lasted almost four-and-a-half hours.

**Public Input**

**Open to the public to address any issue other than the scheduled public hearings.**  
No one came forward to speak.

**Field Changes**

**Bobbie Stevenson** represented the owner of the pizza restaurant located at 449 U.S. Route 1. It was once called Wildcat Pizza. The owner is First York Investment, LLC. These are minor changes to an approved plan that must have board approval. Decking is requested by the front door over an area where the asphalt has sunk. The alterative would be pulling the asphalt up. In the back, the emergency exit does not have stairs.

Glen MacWilliams said the original plan should be part of an application when changes to the approved plan are requested. A few years ago, the previous owner had come with a request change that was approved. But the changes weren't made according to what was approved. The original plan is required to show what was originally approved. He said this plan looked like it would work.

The Chair opened the **Public Hearing**. Steve Burns said a hearing about the deck had been held a few years ago, when Dick Chase owned the building. The deck had already been built without a permit. The board had the deck taken out because the deck was too big. Barrie Munro said there seems to be no problem with the current plan. Documentation of the original plan can be submitted later.

Bobbie Stevenson said she was not sure about the original, approved plan. Christine Grimando said there is a signed, approved plan.

**Motion:** Glen MacWilliams moved to approve the field change, adding that the approval will be based on seeing the inconsistencies against the original plan. Barrie Munro seconded the motion.

During discussion, Dave Woods recused himself.

**Vote:** The motion passed, 4-0. Dave Woods did not vote.

**Minutes: Review and approval of minutes.**

The May 28, 2009 minutes were re-reviewed. They had been found incomplete during the June 11 meeting. Feedback had been given, and the recorder had submitted the corrected minutes. There was no further discussion about the May 28 minutes.

The motion to accept the minutes was made at the end of the meeting, at which time the May 28, 2009 minutes were unanimously approved, as corrected.

**Public Hearings on Proposed Ordinance Amendments**

The following ordinance amendments were reviewed:

- Zoning--Structure Definition
- Growth & Zoning--Conversion of Buildings to Affordable Apartments
- Zoning--Apartments Over Businesses
- Growth--Remove Apartment Prohibitions
- Zoning--Amendments to Workforce Affordable Housing
- Zoning--Affordable Requirements for Elderly Housing
- Zoning--Seasonal Units
- Zoning--Application Procedures
- Zoning--Outside Display Standards for Route 1
- Zoning--Amended Architectural Standards for Commercial Development
- Zoning--Pharmacies
- Zoning--Density Requirements for Seasonal Conversions
- Zoning--Administration of Supplemental Use Requirements

Tom Manzi asked if anyone in the audience wished to speak to the ordinance amendment. Attorney John Wilkinson of Bayberry LP came forward to talk about Item 12, Pharmacies. He called the amendment unique, as proposed, adding that there is nothing comparable in the zoning ordinance for commerce that is presented this way. It suggests there is a saturation of pharmacies. There are no actual studies of the problem.

John Wilkinson said if Bayberry did not go forward, because of this amendment, there would be a problem if someone else wanted to put a pharmacy there. That is not the intent, said Glen MacWilliams. The group talked hypothetically about the possibility of Bayberry not meeting the time limit. John Wilkinson said that if Bayberry goes past the expiration date, then they are barred from other business opportunities. His concern is that if someone comes back if the Walgreens does not get built, the amendment makes it

so they cannot apply for the same use. Town Planner Christine Grimando said she would work on this aspect of the Statement of Fact with John Wilkinson. Todd Frederick said that if they do not build within the time period, they are not grandfathered.

### **Structure Definition**

Ben McDougal, Shoreline Resource Officer, explained the structure definition as an approach to a clear definition, and not a change in policy or procedure. The definition was developed as a request from the Board of Appeals. Structures are enclosures on a fixed locations. They are permanently located. Registered vehicles are exempt from being structures. Structures less than 27 cubic feet in volume, weigh less than 100 pounds, and have no dimension over 5 feet would be exempt. The old ordinance has a loophole that allows objects on wheels, like sheds on wheels, to sit in a setback with no available course of action by the Town. Dave Woods said under the new definition, a canoe or a woodpile would be a structure. Glen MacWilliams said structures are shelters or enclosures. Dave Woods's concern was in finding loopholes in the new language. Perhaps a tarp over a covered woodpile is sheltering personal property. Chairman Tom Manzi opened and closed the **Public Hearing**. No one came forward to speak. There was no member of the public present.

**Preference Vote** Glen MacWilliams moved to leave the ordinance amendment unchanged and to send it forward to the Board of Selectmen. Barrie Munro seconded the motion. Chairman Tom Manzi requested the vote taken by voice. Four board members voted aye, and one voted nay. Dave Woods was opposed. The group decided the preference vote did not have to be handled like a motion.

### **Conversion of Buildings to Affordable Apartments**

Community Development Director Steve Burns said the importance of converting building to affordable apartments is a result of the housing surveys of 2008 and 2009. The surveys indicate that the character of the neighborhoods should to be preserved during this conversion process. Apartments should exist in all parts of town. Four units are the maximum for buildings on sewer and water, and two is the maximum for those that are not. Making half the apartments affordable and the others market priced is financially necessary for the success of the owner. Twenty-five affordable density permits are released every year. Conversion applies to buildings that exist. The size limit is 1500 square feet. Lew Stowe suggested raising the minimal size from 500 to 600 square feet. He found an error on Page 7 of the amendments, where a fee paid by the Town is described.

Administration of affordable apartments would originate with the York Housing Authority, which would qualify the candidates. The subsequent administration of the conversion apartment housing would go to Code Enforcement. The **Public Hearing** was opened and closed. No one came forward to speak.

**Preference Vote** Chairman Tom Manzi requested that the vote for moving the amendment for conversion of buildings to affordable apartments forward to the Selectmen be taken by voice. All five board members voted aye.

### **Apartments Over Businesses**

Steve Burns said this ordinance amendment offers an opportunity for business in Route 1-2 and Route 1-3 zones to have apartments over the businesses. It would hopefully give businesses like Walgreens and Rite Aid incentive to build second floor apartments, which would also make the buildings more conforming. Tom Manzi opened and closed the **Public Hearing**. No one came forward to speak.

**Preference Vote** The Chairman asked for the board's approval to send the ordinance amendment ahead to the Board of Selectmen. There was a voice vote of all five voting aye.

### **Amendments to Workforce Affordable Housing**

Steve Burns said mixed use in neighborhoods could allow uses like houses of prayer, coffee shops, or small stores to coexist with the homes. He said 25% lot coverage is impractical, and has to be larger, 50%, from the Neddick to York Rivers and east of the Turnpike.

Garage doors should not dominate façades in a neighborhood. Kinley Gregg said the alley garage doors behind the Popovers building in Portsmouth, is an attractive arrangement of garage doors. Dave Woods suggested requiring covenants requiring vehicles to be parked in garages. Steve Burns suggested requiring a garage to be architecturally compatible with the building. The Chair opened and closed the **Public Hearing**. There was no one to speak.

**Preference Vote** With a voice vote, the Board agreed to move the ordinance amendment forward to the Selectmen, 5-0.

### **Affordability Requirements for Elderly Housing**

There was no discussion for this Ordinance Amendment. The **Public Hearing** was opened and closed. No one came forward to speak.

**Preference Vote** Tom Manzi called a voice vote to move the amendment forward to the Selectmen. All said aye.

### **Seasonal Units**

The Ordinance Amendment was developed in response to the Water District. Water at York Beach seasonal units has been automatically disconnected during January, February, and March. That "punishes" some residents. Seasonal housing is defined by the shutting off of the water, and it makes the homes exempt from the growth ordinance. A place has to be vacated for 90 consecutive days. With this ordinance, the owner can select the 90 days during which the water is shut off. Dave Woods described how people visit their seasonal homes when the water is shut off. They take buckets of water from his Laundromat in York Beach. The chair opened and closed the **Public Hearing**. No one came forward to speak.

**Preference Vote** The Chair asked for the Board's support in sending the ordinance amendment to the Selectmen. All were in favor, aye.

### **Application Procedures**

This amendment calls for changes, including a requirement for professional certification for applications that came before the Planning Board. It also brings unification and simplification to the administration of the application procedures. For example, the notification of abutters, per Article 8, is not actually required, Steve Burns continued. Notification will be voluntary. Lew Stowe asked about the consequences of failure to post notification. Steve Burns said the Town is not required to post, but does anyway, in TV, radio, and newspaper. The **Public Hearing** was opened and closed. No one came forward to speak.

**Preference Vote** The chairman asked to move the ordinance amendment forward to the Selectmen with a verbal preference vote. All were in favor, aye.

### **Outside Display Standards for Route 1**

Christine Grimando said changes to the ordinance amendment had been according to the requests made by the Planning Board in prior workshops. The extended buffer yard will not be used for outside display and storage. Per 6.3.27.4, the display area should be limited to a minimum setback and buffer yard. Glen MacWilliams said items have to get off the buffer yard and, in some cases, off the street and meet the criteria. Dave Woods described how one store not only spreads out into the buffer yard, but, with the abutter's permission, spills on to the abutter's yard, as well. The **Public Hearing** was opened and closed.

**Preference Vote** The chairman asked for a preference vote by voice, and the board unanimously said "aye".

### **Amend Architectural Standards for Route 1**

Christine Grimando said one sentence had been changed in the original amendment to say that a developer on Route 1 is responsible for demonstrating to the Board that the building design speaks to the surrounding buildings. The **Public Hearing** was opened and closed. No one came forward to speak.

**Preference Vote** The Chairman asked if the amendment should be moved forward with a voice vote, and all voted in favor, aye.

### **LEED Standards for Commercial Development**

Christine Grimando said a LEED (Leadership in Energy and Environmental Design) requirement on municipal buildings had already been established in York. This ordinance amendment provides LEED guidance for privately held non-residential buildings. There are some exemptions based on use categories, including buildings greater than 10,000 square feet would be exempt from fulfilling LEED standards. The Chairman opened and closed the **Public Hearing**. No one came forward to speak.

**Preference Vote** The Chairman asked the Board how they felt about this, Article 12, and the Board unanimously agreed to move it forward to the Selectmen with a voice vote, saying “aye.”

### **Pharmacies**

Glen MacWilliams said the amendment responds to the public’s concern about having a concentration of pharmacies in one zone. Christine Grimando said in the two zones where large pharmacies would be restricted, someone could bring in a shopping center with a small pharmacy, and that would be okay. The Chairman opened and closed the **Public Hearing**, and no one came forward to speak.

**Preference Vote** The Board agreed to pass the ordinance amendment forward to the Selectmen with a unanimous voice vote, aye.

### **Density Requirements for Seasonal Conversions**

Christine Grimando briefly summarized the amendment. Density requirements are higher in places where there is seasonal conversion than in base zones. There is an ambiguity as to where there are density limits. The ordinance amendment allows a person to convert a cottage on a very small lot to seasonal status, which is advantageous for that owner. The **Public Hearing** was opened and closed. No one came forward to speak.

**Preference Vote** At Chairman Tom Manzi’s request, the Board made a voice vote on this amendment. They agreed to move the forward to the Selectmen with a 5-0 preference vote.

### **Administration of Supplemental Use Requirements**

Christine Grimando spoke about taking out performance standards for non-residential development. Instead, the performance standards would be part of the review and/or Code might help in determining performance standards. The Public Hearing was opened and closed. No one came forward to speak.

**Preference Vote** The amendment was moved forward to the Selectmen with a verbal vote of 5-0. All voted aye.

**That ended the Public Hearings on Proposed Ordinance Amendments.**

### **New Business**

**Ordinance Amendments Discuss amendments and direct staff with respect to the first Selectmen’s Public Hearing.**

The next public hearing is scheduled for the Board of Selectmen’s session on July 27, 2009. Revisions of the ordinance amendments will be posted in the next couple of weeks.

**Glen MacWilliams** It is the last meeting for Planning Board Member Glen MacWilliams, said Chairman Tom Manzi. Glen MacWilliams has made significant contributions to the success of the board. He has emphasized professionals to be professional about providing certification, and he has made clarification about accountability on the part of the Planning Board. He was Chair for two years. He came from the Conservation Commission with a strong skill set and holds a good reputation. Barrie Munro said Glen MacWilliams is an example of what makes York tick. Tom Manzi said it is customary to honor a retiring board member with an outing. The Board agreed to do so in the fall.

### **Election of Officers**

The positions of Chairman, Vice Chairman, and Secretary are usually decided at the meeting nearest July 1, said Christine Grimando. The June 25 meeting, this meeting, is closest. The Board decided that since Glen MacWilliams's replacement, alternate Todd Frederick, had not yet become a full board member, the nominations and voting for officers were put off until the following meeting.

### **June 29<sup>th</sup> Planning Board/Board of Selectmen Joint Meeting regarding the work Beach Planning Board Subcommittee. Assessment work completed/work underway, membership, plans for the coming year.**

The upcoming meeting will offer an opportunity to assess the completed and ongoing work of the **York Beach Planning Board Subcommittee**. It has worked under the Planning Board for about a year-and-a-half, and unofficially before then as the Renaissance Committee. Dave Woods said the work for the upcoming infrastructure for Railroad Avenue and its interface with Public Works for sidewalks and drainage are all Subcommittee issues. The budget for doing these things has to be spent wisely.

Lew Stowe said the Board of Selectmen is talking about taking over the York Beach Planning Board Subcommittee. It is being discussed at the upcoming joint meeting. Losing the committee would be loss for the Planning Board. Barrie Munro said the Architectural Design Standard piece of the Subcommittee's work became a primary objective. The Selectmen realized the infrastructure had to be organized for the May referendum. Infrastructure is not related to the ordinance. So, the Subcommittee dropped the emphasis on the design standards.

Direct access off Route 1 has to be considered by the Subcommittee, said Christine Grimando. The expansion of Route 1 is an upcoming issue. The subcommittee has experts in its membership who can participate in these issues. The subcommittee's document is put together, and when it is ready, it will go to the Planning board to go on the warrant. The Planning Board and the continuing direction of the board of selectmen are being covered in this document.

Dave Woods said foremost, the York Beach Planning Board Subcommittee has provided a wealth of information through research it has conducted. Lew Stowe said the Subcommittee is necessary for a portion of the Planning Board's success. Tom Manzi said the subcommittee is "grafted to our hip." Barrie Munro said he hopes the Selectmen will

say what their needs are. The subcommittee should be able to do anything relative to York Beach. Dave Woods said the subcommittee has been good forum for communication with other part of the town. He talked about their research and knowledge of the sewer situation. They have volunteered at least \$100,000 in research time. Barrie Munro commented on the Subcommittee's participation in the direction of Ocean Avenue Extension. The Board of Selectmen's taking over of the Subcommittee is not a good idea, he concluded. Dave Woods said the Select-board might have been misinformed about the subcommittee.

Christine Grimando had handed out correspondence from a **handicapped woman under 55** living in an elderly-housing overlay she does not qualify for. It is being suggested that she should be allowed there because she is handicapped. The housing association (Sentry Hill) has approached Planning about it. Dave Woods said she should be allowed to stay there, though in violation, until something can be drafted. Christine Grimando said the board is not enforcing it.

In other business, Richard Bournival has asked to return in two weeks for the Bournival Dodge code violation.

The May 28 minutes were approved, because they had not been voted on at the top of the meeting.

**Motion** Dave Woods moved to approve the Minutes of May 28, 2009. Glen MacWilliams seconded the motion, which passed, 5-0.

The meeting closed at 10:20.