

York Planning Board
Thursday, January 23, 2014, 7:00 P.M.
York Public Library

Call to Order, Determination of Quorum, Appointment of Alternatives

Chairman Todd Frederick called the meeting to order at 7:00. A quorum was determined with five people voting: Todd Frederick, Board Secretary Lew Stowe, Brud Weger, Al Cotton, Jr., and alternate Peter Smith. Christine Grimando, the Town Planner, represented staff. Patience Horton took Minutes.

Public Input

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

No one came forward to speak.

Minutes

Minutes of January 9, 2014 were discussed and corrections were requested.

Motion: Brud Weger moved to approve the January 9, 2014 minutes as amended. Peter Smith seconded the motion. The motion passed, 5-0.

Field Changes

- Sea Latch Field Change

Project engineer Ed Brake showed two catch basins on the ocean side of the proposed building where a 12-inch drain line was changed to two 8-inch pipes. The sewer line was left alone. There was no change in stormwater flow.

Lew Stowe asked if the town engineer works with the contractor to see changes. Town Planner Christine Grimando said she does not send field changes to the town engineer, unless a new stormwater review is necessary. The project engineer usually submits a statement for the file that there is no increase in the flow.

Motion: Lew Stowe moved that we accept the changes as stated for the Sea Latch Motel after changing the 12-inch culvert to two 8-inch culverts. Al Cotton seconded the motion, which passed, 5-0.

Public Hearing

The York Planning Board will conduct a Public Hearing regarding five proposed ordinance amendments to be considered at a May 2014 Special General Referendum.

- 1) **Allow Additional Uses in the Northern Portion of the Route One-2 Zone**
- 2) **Harbor Ordinance and Zoning Ordinance Amendments**
- 3) **Require Septic System Inspections**
- 4) **Amend Standards for Commercial Functions Amendment**

York Planning Board Minutes

January 23, 2014

Page 1 of 6

5) Alter Membership Requirements for Board of Design Review

1) Allow Additional Uses in the Northern Portion of the Route One-2 Zone

Steve Burns, Community Development Director, said this amendment allows additional uses in the northern portion of the Route One-2 zone. The part of the zone is north of Spur Road. (Another section of the zone is in the “southern” area of the Mic Mac motel.) Last September 26, Tim Miles inquired about changing the permitted uses on the site of the cleared but unoccupied Elks’ property. The proposed uses include wood manufacturing (cabinet making), vehicle service station (auto repair), car sales, rental, and inside storage of automobiles.

Chairman Todd Frederick opened the **public hearing**. The president of the York Elks, **Tom Veronesi** said the sale of the property is impacted by the changes the board makes. The Elks have been trying to sell the land for years, but negotiations have fallen through because of the zoning.

Charles Stacy asked why this kind of change shouldn’t be done to all the zone boundaries. It would be better to put one zone between the York River and the Cape Neddick River.

Applicant **Tim Miles** said he’d like to see this go through.

In discussion, Lew Stowe noted there is a restriction on how many cars can be outside. Steve Burns explained there is a distinction between car repair and car sales. With car repair, people drive in and leave their cars outside. Vehicles that are for sale will be stored inside.

Motion: Peter Smith moved that we forward this amendment to allow additional uses in the northern portions of Route 1, to the Board of Selectmen. Brud Weger seconded the motion. It passed 5-0.

2) Harbor Ordinance and Zoning Ordinance Amendments

Steve Burns said changing the definition of “commercial fishermen” in the Harbor ordinance gives preferential treatment to York commercial fisherman. Keeping a working waterfront in York is part of the Comp Plan. The ordinance cuts out the commercial fishermen from outside the town who expect the same preferential treatment.

The second issue deals with personal watercraft like Jet Skis and Wave Riders. The old definition in the harbor ordinance covered the old types of water vehicles, but the new watercraft is bigger and different.

The third amendment is in the zoning ordinance. The fourth deals with taking dock measurements. Measuring for dock length and position according to the tide is not consistent. Measuring against the shoreline is more accurate.

The **public hearing was opened and closed**. No one came forward to speak.

Motion: Al Cotton moved to move Amendment, Harbor Ordinance and Zoning Ordinance Amendments, to the Board of Selectmen. Brud Weger seconded. The motion passed, 5-0.

3) Require Septic System Inspections on Transfer of Property

Steve Burns led the discussion. Forty percent of the bacteria pollution in the Cape Neddick River is from old septic systems that do not treat sewage adequately. Consultants have said that in 2001, there were already too many septic systems for the soil capacity along the river. Septic systems have a life of about 20 years. After that, they are no longer fully functioning. This amendment is based on Mass. Title 5.

The Chairman opened the **public hearing**. Soil scientist **Michael Cuomo** said that having required septic system inspections by soil scientists would protect homebuyers and water resources. Currently, septic systems can be inspected by anyone. There are no qualifications necessary for testing.

This amendment would exclude certain transfers that are not open sales, he said. If property is transferred between family members, or if proportional ownership of the property is changed between existing owners, or if a spouse or beneficiary is taken on or off the title, this amendment would not apply to those transactions.

Laurie Barrett spoke as a taxpayer, citizen of York, and realtor. She opposes Amendment 3 because the criteria are too demanding if every homeowner selling property must have a licensed site evaluation. That puts 100% of the financial burden on the homeowner. Typically, a septic inspector does the septic inspection for the buyer at the buyer's expense. The buyer and the seller are notified in the event of a failed system. If the buyer puts a house under contract, part of the buyer's due diligence is to perform inspections, including the septic inspection. The septic inspection costs \$400 to \$700. Having the licensed soil scientist costs two or three times more, \$800 to \$1500.

Heidi Lumia of Cape Neddick said she supports the ordinance. There is a pollution situation in Cape Neddick. Everyone there has a septic system. It must be mandatory that people are not polluting waters. Replacing a septic system has a high cost. If the Town becomes part of clean the water, that is going to cost the taxpayer even more.

Mike Dubarry said he pumps his septic system every two or three years. He asked how bacteria could be limited or stopped.

Charles Stacy has live in Cape Neddick for 75 years. There were more than 30 farms in the area at one time, and the manure is still in the ground. Brooks coming out of those farms go into the river. Are you going to dig up all the areas around there? It's a losing battle. This will just be another law.

Greg Gosselin, a Cape Neddick resident and realtor, asked the board to vote no on Amendment 3. Massachusetts introduced the Title 5 State Environmental Code in 1978,

due to rapid housing growth, increased density, and issues with septic systems along shorelands. In Maine, prior to 1982, there were few home inspections performed. In 1987, effective at the time of property transfer in shoreland areas were introduced into law similar to Massachusetts Title 5 codes. It includes inspection of all septic systems in Maine within 250 feet of the coastal areas.

Currently, by law, sellers have to complete a seller's property disclosure. It is a three-page form that includes the subsurface wastewater disposal system and whether it is located in the shoreland zone.

This new ordinance puts the burden on the homeowner and increases the time frame the seller has to prepare for the transfer. With the ordinance, Maine licensed evaluators will have the added cost of filling out 17 pages, as they do with Massachusetts Title 5. He recommended that Town Planning bring together a group of professionals to create a proposal that is environmentally sound and will create a balance between homeowners and the Town of York.

Steve Burns said that fundamentally, all the amendment asks is if a septic system should be corrected. There is no fee being suggested. It doesn't look like it would be a burden for the Town. The important piece seems to be the buyer/seller issue.

Continuing the **public hearing**, **Helen Rollins** said the idea of an overflowing septic system is horrible. At Town Hall, she figured out that the homes west of the highway have an average assessed value of \$321K. Four hundred dollars to inspect a system, is .1% of the value of the house. That is a small amount for inspecting a system. Inspection proves the system is being maintained. This ordinance is a great first step.

Wes Cook, a realtor, said he is opposed to the ordinance. It is okay to tell us we have to do it, but not how we have to do it. The buyer is doing the inspection and paying for it. If there is a problem, it goes back to the seller. There can be inspections without a licensed site evaluator. Most people we represent are buyers who have the septic systems inspected.

Ginny Whitney, a York resident and real estate broker, lives on the York River. It is rare that a buyer doesn't have the system inspected. Why just the shoreland owners? Why not everybody?

Dick Bachelder, Orchard Farm Road, said this is a good start. He has been in the septic system business for 23 years. There is a difference between licensed site evaluators and house and septic system inspectors. One is that inspectors do not have the authority to design a septic system.

A leach field is a distribution media for the water that comes out of the septic tank. If soils are clay and they perk slowly, more leach area is needed. If the solid is sandy, it goes down fast. The limiting factor is the vertical separation between the bottom of the

leach field and the media. It's a matter of getting the "bad stuff," like ammonia, hydrogen, and nitrogen all mixed together, broken down and out of the septic water.

In Maine, the area of vertical separation media varies according to the soil type. If a system is taken care of, theoretically, it will last forever. After years of use, though, the ability of the subsoil to treat is reduced. A septic shelf life of 20 years is a fair estimate.

Mike Cuomo said that from listening to the comments, the objections were not over the inspection requirement, because it isn't clear that the seller is responsible. There are people who are qualified but not licensed.

The Chairman closed the **public hearing**. Steve Burns said there couldn't be an overhaul of the amendment before May. There should be special licensing for older homes with septic that are weekly rental houses. They should be pumped once a year.

4) Amend Standards for Commercial Functions Amendment 4

Steve Burns called this a minor amendment. Private residences are set up to hold commercial functions for weddings and parties. The owners have to go the Board of Selection to permit each function. The number of port-a-potties had been an issue. One unit per 100 guests seems appropriate.

The Chairman opened the **Public Hearing**.

Mike Dubarry suggested that the port-a-potty service should advise the number used at events.

Richard Schmidt of Josiah River Farm said his farm is a historic property. Working with ordinances has meant jumping through hoops. Events at his farm do not impact the neighborhood with increased noise or traffic. He is asking for the ordinance change to allow him to do 12 events in a calendar year, not 10. He wants be able to hold three events in a calendar month, rather than three in a 30-day period.

The chairman closed the **public hearing**.

Motion: Brud Weger moved to approve to Amended Standards for Commercial Functions on Residential Lots, as discussed this evening. Al Cotton seconded. The motion passed, 5-0.

5) Alter Membership Requirements for Board of Design Review

Steve Burns said the York Harbor Board of Design Review was inherited from Harbor Village Corporation ordinances, which dissolved in 1975. Under those rules, the board membership must include a person from the Planning Board, who chairs the meetings. The chairman picks a vice chair. There are technical requirements for board members. Steve Burns said that to bring the structure of the Board of Design Review into compliance with the other boards in York, it has to change its structure to Roberts Rules.

The Chairman opened and closed the **public hearing**. No one came forward to speak.

The ordinances of the York Harbor Board of Design Review basically encompass York Harbor. Todd Frederick said that in his experience, every year, the Harbor Board receives about two applications for commercial signs in the Lancaster Building.

Motion: Lew Stowe moved that we pass Amendment 5, Alter Membership Requirement for the Board of Design Review, to the Selectmen. Al Cotton seconded the motion, which passed 5-0.

New Business

- **Sustainable Stormwater Project**

There are impervious surface standards and MS4 code mandates that must be covered in new ordinances. On February 11, the planning department is meeting with technical experts from DEP, EPA, Conservation Law Foundation, Wells Reserve, the Coastal Training Program, and the Piscataqua Region Estuaries Program to brainstorm the issue. After that, there will be a meeting to decide what can be done about getting clean water.

- **Discussion Re: Performance Guarantees**

Christine Grimando had sent the board a memo about performance guarantees. They provide an assurance that completion of public improvements for every subdivision project. The funds total 125% of the site work, landscaping, and infrastructure costs, and assure that that work will be completed. The amounts are itemized. After the Board approves an application, Ms. Grimando then reviews the letter of credit and other related information.

- **Interpretation of Key Zoning/Site Plan & Subdivision Sections**

Lew Stowe talked about the board's demonstration of transparency using the 6.3 and 6.4 checklists. He suggested that on all major applications, 6.3 should be used in the preliminary plan. The applicant would submit 6.4 at final. The board should require that this be done, he said.

Other Business

About the connector road and police station, Chairman Todd Frederick said that nothing has been heard from the contract planner.

Upcoming Meeting Agenda

- There are two small subdivision applications coming up

Resigning of Bangor Savings Field Change Mylar

Adjourn

10:30