

**TOWN OF YORK PLANNING BOARD
THURSDAY, MAY 27, 2004, 7:00 PM
YORK PUBLIC LIBRARY**

Chairman Glenn Farrell started the meeting at 7:00. Dave Marshall, Barrie Munro, Glen MacWilliams, Richard Smith, and alternates Tom Manzi and Lee Corbin attended. Steve Burns represented the Planning Office. Patience Horton took Minutes. The meeting was televised. Two motions were made.

Public Hearing

Open to the public to address any issue other than those scheduled for public hearings on this agenda.

David Tibbetts of the York Conservation Commission handed out Recommendations for Ordinance Amendments concerning better definitions and added language along State and Federal guidelines. The recommendations included a clearer definition for adjacent wetlands and a change in definition for coastal wetlands.

Business

Public Hearings

Conduct public hearings on the amendments listed below. Following the public hearing, discuss each and take action as appropriate.

ORDINANCES (All nine amendments are Zoning Ordinances, except No. 3, which is a Noise Ordinance.)

1. Accessory Residential Use

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

2. Fishing Provision

The public hearing was opened.

Pat White, a fisherman out of the Harbor said he supported the ordinance and felt the amendment was good for commercial fishing in York

Ed Blonar, who also fishes out of the Harbor, said that the ordinance was good because it delineated certain areas. The public hearing was closed.

3. Regulate Overnight Filling of Vending Machines

Jim Smith, who lives in the Harbor across from the Post Office, said that the amendment would limit time for filling of newspaper vending machines to after 6:00 a.m. and before 10:00 p.m.

4. Restaurant Seating as Accessory to Retail

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

5. Define Base Zones by Map

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

6. Reduce the Area in the Gen-3 Zone

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

7. Boundaries of the Shoreland Overlay

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

8. Structure Expansion Limits in the Shoreland Overlay

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

9. Setbacks and Buffers in Mixed-use Shoreland Overlay

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

Board Discussion followed the Public Hearings.

1. Accessory Residential Use.

Barrie Munro thought the amendment was well written. It prevents future expansion and the added space could not become a rental unit. Dave Marshall was concerned that a house might easily become a duplex. The number of potentially added units seemed unclear. Lee Corbin was concerned about potential abuse. She asked how the units would be enforced. Glenn Farrell explained that any added unit would be recorded in Alfred. When a property is sold, it would be determined if the unit is still valid. If not, the unit would be taken out. Steve Burns suggested placing a licensing option on a property that would be checked once a year. He said such units would be excluded from impact fees, which Dave Marshall questioned. Steve Burns said he would look into potential impact fees.

2. Fishing Provisions Steve Burns said that an example of post-harvesting, such as “like a cannery,” should to be added to the language of the amendment. He also explained how the Old York Historic Society dock could be accessed. The idea that lot coverage can maximize 70% of commercial fishing property should refer exclusively to waterfront lots.

3. Vending Machines There were no comments from the Board.

4. Restaurant Seating There were no comments from the Board.

5. Define Zones by Map Barrie Munro asked if changes to the zone boundaries could be made after the general vote, and Steve Burns said that the vote is final. He said that he

was relying on press coverage for public notification. Lee Corbin confirmed that, if there has been public notice, the Board has done its notification.

6. Reduce the Area in the GEN-3 Zone Steve Burns said that CEO Tim Decoteau said that businesses should screen outside storage. Small businesses within GEN-3 are a concern to Tim Decoteau because their ability to expand, which is limited, has to be addressed. Barrie Munro suggested that non-conforming spaces could expand within the limits of their property size.

7. Boundaries of Shoreland Overlay Steve Burns said that owners of all properties going into Resource Protection have to be notified by the Town. Glenn Farrell asked Steve Burns to look into the Recommendations for Ordinance Amendments made by David Tibbitts. Dave Marshall commented that the format presented by David Tibbitts was very good. Barrie Munro said that the word-for-word language had come directly from State mandates. Steve Burns said that the State wetland definition was already in use. Glen MacWilliams said that the most restrict rules should prevail, whether they are State or Federal law. Lee Corbin brought up the coastal wetland maximum spring tide level, saying that it is limited to one day. Steve Burns explained it as an average. He said that if a shoreland wetland shows up on the map, then it would be defined as a shoreland wetland, without regard to its size.

**8. Structure Expansion Limits in the Shoreland Overlay and
9. Setbacks and buffers in Mixed-use Shoreland Overlay**

Steve Burns said Selectman Torbert MacDonald's language restricting expansion in the direction away from the water, and that expansion of a structure can come no closer into setbacks and buffers that exist on the waterside of the building would solve earlier confusion there had been about the amendments.

REGULATIONS

1. Site Plan & Subdivision Regulations—Revoke Department Veto Authority

Glenn Farrell opened the public hearing. Chief Doug Bracy of the York Fire Department came to the podium. Glenn Farrell explained that the regulation would be a means for the Planning Board to approve an application, even if Police or Fire Chief or Public Works Director would not want to sign off on a plan. Dave Marshall explained that if one of the three "holds out," it stops the project. This regulation will allow for input and still enable the Board to make the final decision. Chief Bracy used the example of the inadequate fire main planned into the expansion of the High School. Because of the process, the problem was resolved before it was too late. Steve Burns said that after the regulation changes, an applicant will have to seek input and a sign-offs from Police, Fire, and Public Works, which the Planning Board will review. Water and Sewer can still approve or deny. Chief Bracy stressed that the Board and the Chiefs/Director need to work closely together.

Michelle Moody asked that when there is an objection, overruling it should not be made with a 3-2 vote by the 5-member Planning Board. She said she would be more comfortable if only a 4-1 vote could approve a split opinion among the members. She cited the York Fitness Center's recent application. Barrie Munro replied he felt it was an unreasonable circumstance to have to override a veto with a 4-1 vote.

Motion Barrie Munro moved that the applicant is responsible for obtaining all necessary approvals or permits required, and that final approval of the final plan shall be granted upon determination that all required approvals and permits from agencies, other than the Town of York, have been obtained, and advisory opinions have been received per 6.4.5. Dave Marshall seconded the motion, which passed, 5-0.

2. Discuss historic landmark designation of the River House

The Historic District Commission has proposed landmark designation for the River House (aka Breckenridge Estate) and has provided information to the Planning Board as required in the Zoning Ordinance. The Planning Board should offer a recommendation.

Steve Burns that the property, which being sold by Bowdoin College for \$5.5 million, qualifies for, but has not received, historic designation on the National Register. He described the significant, early 20th century house and landscape architecture. Designation is proposed against the wishes of the owner, and a buyer might not respect the property's historic value. The Planning Board's placement of the property on the National Register would be consistent with the Comp Plan, were it is stated it should be a goal that the number of houses with historic designation should increase. But the house could be a great B&B, said Steve Burns, or a celebrity rehab center, among other commercial uses.

Motion Glen MacWilliams proposed that the Planning Board supports the Historic District Commission in furthering the River House as a historic landmark. The possible designation is based on the intent of the Comp Plan beyond the Planning Board, though the current owners do not agree with the designation.

Richard Smith said that formal findings without the consent of the owner should not be made. Barrie Monroe seconded the motion.

Amendment David Marshall said he agreed with Richard Smith. He amended Glen MacWilliams's motion that the Board support Article 9.1.2, the intent the Historic District, but then encourage the owner to made the decision to accept the designation.

In discussion, Barrie Munro said that the motion was consistent with Articles 9.1.1 and 9.1.2. The motion supports protection for the property. The Board's neutrality was good. Glen MacWilliams said that the change could be made without the owner's consent. Lee Corbin said that though the Historic District can designate without consent, in this case, and due to the decision's impact, the Board should to take the owner's consent into consideration. Glen MacWilliams agreed to accept the amendment to his motion.

The motion and amendment were repeated. Glen MacWilliams had proposed that the Planning Board supports the Historic District Commission in furthering the River House as a historic landmark. Dave Marshall amended Glen MacWilliams's motion that the board support Article 9.1.2, agreeing with the intent the Historic District, but then encourage the owner to accept the designation, which amendment Glen MacWilliams accepted. Barrie Munro added that the board's action was consistent with both Articles 9.1.1 and 9.1.2.

Vote The motion passed, 5-0.

Discuss other Possible Code Amendments

A. Discuss commercial uses in the shoreland zone in the following areas Cape Neddick River, York River, and York Beach

Joe Young, owner of the Cape Neddick Lobster Pound, handed out a paper, which the Board read in silence. Barrie Munro brought up changes in uses, calling Joe Young's use traditional. If it is there, he said, it should be permitted to exist. Glenn Farrell said that Joe Young was looking to expand on his existing property, not on other property. Richard Smith said that residential uses are driving out businesses. Lee Corbin said that commercial businesses have to be encouraged, or York will become a bedroom community. Joe Young said that his situation was unique because he was in Shoreland, RES-6, and other overlay districts, making it impossible for him to expand. There was not further discussion on that matter.

Steve Burns said that the building of small wooden boats inside the shoreland zone could be proposed, but that only Harris Island had been granted mixed use to permit it. He recommended running the idea by the York Harbor Neighborhood Association.

B. Continuation of earlier discussions about limiting maximum building heights

Steve Burns said that other communities seem to limit heights to 35 ft. Ogunquit as a 2-1/2-story limit. Eliot has one area allowing towers. He recommended allowance of a maximum height. Richard Smith had talked to someone who said that silos and barns are better at 50 ft, and 35 ft does not hold enough. Lee Corbin said that there has to be significant acreage for a 50 ft silo. Glen Farrell said that the silo size could be tied to the acreage. Steve Burns said that the applicant would have to come in and make a case. Glen MacWilliams wondered if imposing 50 ft maximum on church steeples allowed enough height. Perhaps the standard should be compared to what already exists, to which others agreed.

C. Building areas that are not contiguous (think St. Charles Place application)

Often there is a lot of density on a front piece of land that is separate from what is buildable out back, said Steve Burns. Barrie Munro referred to that lot configuration as a flag

lot. Glenn Farrell said that there would be more occurrences of the situation, as builders are running out of land. He said to put the matter it on the list for future discussion.

Other Business/Adjourn

At an upcoming meeting, work priorities for 2005 and issues in the zoning will be discussed. The meeting adjourned at 9:25.