

**TOWN OF YORK PLANNING BOARD
THURSDAY, AUGUST 8, 2002, 7:00 P.M.
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Chairman Glenn Farrell began the meeting at 7:00 P.M. Planning Board members Al Bibb, Barrie Munro, Torbert Macdonald, Dave Marshall, and alternates Dan Remick and Mike Estes attended. Town Planner Steve Burns and Land Use Technician Brett Horr represented the staff. Patience Horton was the recording secretary. The meeting was televised.

MINUTES. The Minutes of the July 18, 2002 meeting were reviewed. Barrie Munro moved, and Al Bibb seconded to approve the Minutes. The vote was unanimously in favor.

APPLICATIONS/PUBLIC HEARINGS

Twin Lights. Map 33/Lot 45. Preliminary Subdivision application for a 7-lot cluster subdivision as well as Shoreland Approval in the RES-7 and Shoreland Zone.

Brett Horr introduced the matter, questioning whether the setback for the cluster subdivision in a wetland district should be determined by Article 7.6.6, as previously understood, or updated to Article 8.1.1, as a wetland in the Resource Protection District. Torbert Macdonald read from the ordinance and accompanying table. If less than 25% of the property is coastal wetland, then building is subject to a 250-foot setback. Furthermore, as the percentage goes up, then the setback goes up, as indicated by the table. Brett Horr asked if the wetland itself belongs as part of the setback. Torbert answered that it has to be part of the resource protection. When Chairman Farrell asked Mr. Bibb, Mr. Munro, and Mr. Marshall for their opinions, they all concurred with Mr. Macdonald's interpretation. Mr. Farrell looked squarely at that applicant and said, "The plan does not work."

Applicant Paul Hollis stated that a curveball was being thrown at him. The table doesn't make sense. If it were at 0%, does he have to be 250 feet away, he asked. When he suggested that the land was not on the resource protection map, Torbert Macdonald answered that it had been determined so by the CEO. Bill Anderson then said that the table did not apply in this case, because the map identifies resource protection, and that particular property is not on the map. Therefore, the wetland setback would only be 100 feet. Torbert Macdonald explained again that this is a coastal wetland. Mr. Horr said that the wetland exists on the official shoreland map, therefore existing on the map, and it meets the definition of 8.1.1.

David Ballou said that he had read the ordinance and found it referred to the more restrictive Article 7.6.6., because the houses would be clustered. Glenn Farrell explained that the 250-foot setbacks would have to be observed. Mr. Ballou proposed to convey portion of the wetland to an abutter, which Torbert Macdonald thwarted by saying that the least amount of setback in resource protection is 250 feet.

Torbert Macdonald moved to reject the application for failure to meet requirements of Articles 8.1.1, 8.1.1.1, and 7.6.6, which Dave Marshall seconded. In discussion, Barrie Munro expressed that the resource protection issue a showstopper that should have blocked the application from returning to the Board. Steve Burns said that Stan Moody had brought the point up earlier, but the applicant brought it forward.

The chairman called the vote, and all were in favor of the motion to reject the application, 5-0.

Remax Real Estate. Map 54/Lot 10Z. Sketch Plan Review for expansion of both the building and parking lot in the Route One-3 Zone.

Brett Horr introduced the sketch review, describing the proposed expansion of office and parking spaces. The applicant needed to show that they wouldn't exceed 60% lot coverage, which their engineer had gone ahead and demonstrated. Brett referred to Article 5.2.4 regarding the setbacks for lots of record.

Bill Anderson showed the proposed addition on the plan, and he showed the rearrangement of parking spaced in the rear, including five additional spaces where the greenhouse temporarily stands. He explained that the ratio of volume to parking spaces works with or without the removed greenhouse. He said that the gravel parking lot might be paved. They were asking the Board to waive the setback to 30 feet. Glenn Farrell suggested that if they might pave it, there should be a note applied initially, so that they won't have to come back and ask to do so.

Torbert Macdonald and Dave Marshall motioned and seconded to open the public hearing. No one came forward, so Dave Marshall and Barrie Munro moved and seconded to close it. The issues surrounding the sketch plan were complete.

York Beach Inn. Map 24/Lot 44. Sketch Plan Review for redevelopment in the Bus-3 zone.

Steve Burns introduced the matter, saying it was nice to have people interested in renovating and not tearing the building down. The Comp Plan encourages reinvestment in the Beach—and this is the best you could have, he said. It will have to comply with standards from the Historic District, though this is not part of it, because the developer can take advantage of incentives. Parking and the preliminary plan are the two issues.

Architect Glen MacWilliams began his presentation by handing the Board members additional information. He told the story about the fisherman who pitched potatoes over the side of his fishing boat in the dense fog and was happy to hear the spuds splash as they hit the water, as opposed to hearing the thud of being grounded (now you relate it). He asked the Board to give a sense about the project. He had read about how the building deserves historic recognition, though it is not in the district. He also explained his understanding that 28 additional off-site parking spaces will be required.

Mr. Munro and Mr. Bibb motioned and seconded to open the public hearing. Stan Moody of Cape Neddick was curious to learn if removing part of the building, as proposed, would destroy some historical content. Jay Spadano, who has been coming to York Beach for 35 years, and who owns property there, encouraged the Board to

work favorably with the applicant. With no one else to speak, Mr. Marshall and Mr. Munro moved and seconded to close the public hearing.

Steve Burns said he had reviewed abutter letters. Brett Horr had spoken to many people who are enthusiastic about the project, however, abutters would not appreciate a full-blown bar. A restaurant with lounge would be okay. Also, a telephone call from William Roche had revealed that he saw the project as a good opportunity, only if the development is done well.

Mr. MacWilliams asked to discuss off-site parking. Torbert Macdonald said that almost all the parking in the area is municipal. Farrell mentioned that the fish market has several spaces out back, and that the Woods family has some. Mr. MacWilliams asked for criteria, which Steve Burns replied by referring to Article 15.1.1.6, which allows for provisions to have off-site parking, the permanency for which has to be guaranteed. Barrie Munro said that since Pops' Shell Shack is operating, that footage should not be against the retail space. Steve replied that the project is 16 spaces deficient now, and it would be 16 deficient, when it is done. Al Bibb said that he would have no problem waiving parking, if the ordinance allows it. Torbert brought up the all-day parking spaces behind the Breakfast Spot, across the street. Mr. MacWilliams is interested in taking out the part of the building that was not part of the original structure, which would provide a couple of spaces. When asked, MacWilliams said that a Mr. Robert Zano, of Naples Florida is the applicant.

Steve Burns told him that the Board of Appeals might reduce the parking standard, as in Article 15.1.1.4. Mr. Bibb said that Article 15.1.1.3 would allow the Planning Board to waive the parking, which Steve argued would not apply. When Mr. MacWilliams was flat-out asked by Dan Remick if there will be a bar, he replied that nothing is decided. When he was asked what the exterior would be, he said that the owner wishes to be as sympathetic to what is there as possible.

David Brown. Map 97/Lot 12. Route One Use Permit for change of use in the Route 1-5 zone.

Brett Horr introduced the matter. Mr. Brown is changing the use from home occupation to include resale space for the revived furniture they restores. The Planning Office has no problem with this plan. The parking area is favorable, in that the applicant is making parking spaces available.

David Brown said that he wants to put in an upper end home furnishing business on the premises. The parking ratio is in compliance with the square footage requirement.

Mr. Marshall and Mr. Munro moved and seconded to open the public hearing. Stan Moody of Cape Neddick said that if the expansion is toward the stream, shrubs need to be added to filter the effects. Mr. Marshall and Mr. Munro closed the public hearing.

Barrie Munro said that the waivers as requested are inapplicable and can be ignored. Torbert asked if the driveway is gravel. Al Bibb said that the waivers are not needed for Route One Permit. Barrie asked the distance between the parking and stream. Mr. Brown answered, 125 feet.

Barrie Munro moved to approve the Route One Change of Use, which Dave Marshall seconded. Torbert Macdonald suggested that Barrie change the motion to approve

the waivers, as they formally apply to the district. Barrie Munro restated the motion to include the acceptance of the waivers. All voted in favor of the motion, 5-0.

Before moving to the next item, Glenn Farrell took a moment to introduce Mike Estes, the new alternate member of the Planning Board. There was a short break.

Donald Neumann. Map 97/Lot 18. Preliminary and Final Subdivision application for a 3-lot subdivision as well as Route One Use Permit located in the Route 1-5 zone.

Steve Burns the introduced the application for a 2acre lot. The proposed, large building has a business on the first floor, a 2-bedroom apartment above, and a garage on the end. The landscaping is the biggest issue, because the applicant wants to keep the existing landscaping. There are two waivers to be voted on. Also, neighbors named Collopy say the property where the building will be is on their property. They have asked for two weeks to produce support for their claim. After discussion among the Board, it was decided to go ahead with the hearing.

Jeff Aleva with Civil Consultants said that his company had researched the boundary back to 1917. Mr. Munro and Mr. Bibb opened the public hearing. Stan Moody said that he felt the applicant was cutting vegetation in the wetland. Steve Burns thought he meant the drainage ditch. Moody referred to the wetland in front of the building. He said that continued cutting in that area is sensitive. He referred to the ordinance that concerns such cutting. Torbert Macdonald said that that wetland is a glorified drainage ditch, not of high value. Stan replied that all wetlands have some value. Mr. Marshall and Mr. Munro closed the public hearing.

Barrie Munro moved to accept the application for review. Dave Marshall seconded. All voted in favor of the motion, 5-0.

Barrie Munro turned the focus to the landscape buffer in the back, which he said had nothing to do with removing vegetation. He moved that they waive Article 6.3.13, which Dave Marshall seconded. All voted in favor of the motion, 5-0.

In the discussion of vinyl siding, Steve Burns said that the distance from the road and the amount of vegetation make it so a person can't tell the difference what kind of siding it is. Barrie Munro said that wood siding would keep the integrity of the process. Torbert said that with the distance and the amount of vegetation, he tended to agree with Steve, but if wood siding is waived here, they will have to waive it every other time it comes up. Al Bibb said that the Planning Board does not have the authority to waive it, which Steve disagreed with, citing Article 6.3.28 (f), the granting of a waiver that would not change the aesthetics.

He motioned not to grant the waiver, which Barrie Munro seconded. The motion passed, 5-0. Dave Marshall explained to the applicant that it was just the side facing Route One that had to be of wood.

Jeff Aleva explained that his client wished to thin out the brush and leave the maples along Route One. Trees would not be cut. Don Neumann, the applicant, handed out some photos of the property and showed the area on the plan he wished to thin out. Aleva explained how the DOT had dug out the ditch, which allowed several pockets of water to exist. The Board discussed whether a landscaping plan was necessary, considering the substantial amount of natural vegetation.

Dave Marshall moved to waive the landscaping plan, which Barrie Munro seconded. All voted in favor of the motion, 5-0.

The Board discussed the possibility of sending Al Bibb out to observe the amount that is removed. A 2-person *ad hoc* committee could go out and discuss the matter with Mr. Neumann. All agreed such action would help make sure he clears the brush and leaves the trees. That action would be added to the plan notes.

Torbert Macdonald raised the issue of proposed septic and well, to learn that the property is on Town water. Glenn Farrell raised the issue of the Collopy claim to the property issue. Torbert and Al Bibb both agreed that there is no determination, the Board does not want to deal with it, and it is moot.

Barrie Munro moved to approve the three-unit subdivision application with the waivers as discussed and voted upon, as preliminary and final, which Torbert Macdonald seconded. Steve Burns said that the waivers would go on the plan notes. Al Bibb made the friendly amendment to include the change in the Route One use permit to the motion. Everyone voted for the motion. The vote was 5-0

York Sports Center. Map 94/Lot 51. Review of project in the Route 1-4 zone.

Steve Burns said that the Beach Fire Chief reported to him that the road did not look like the plan said it was supposed to. Changes in the design varied from the original plan. When changes vary noticeably from what is approved, like the retaining wall being removed, it has to be brought back in. An abutter asked the Planning Office about it. The Town Engineer, John Treat, does not have a problem with what is going on. There are landscaping issues. The applicant did not notify Planning about the changes, but there was good coordination between applicant and town engineer.

John DeStefano introduced the instrumental group working on the project. He showed photos of the progress, including the stone retaining wall, which replaces to the proposed masonry retaining wall. He showed the road and the Rudd Building. He discussed the buffer, which he felt was working. He showed areas of future additional trees. The removal of trees and islands from the original landscape plan, at Fire Chief's recommendation, had been achieved. He reviewed the change in the access road retaining wall and explained how it allows for a safer straight-shot into the parking lot. Barrie Munro asked specific questions about vegetation. John DeStefano explained the drainage theory from the Sports Center and that of Atlantic Dentistry. Jack Keener then explained the drainage and told how a new catch basin will direct rainwater away from Route One. Dave Marshall brought up his fear that people will slide down the icy driveway uncontrollably and onto Route One. DeStefano showed ways that water would get trapped before hitting the driveway.

John DeStefano also described the 48 sq. ft., 10 ft. high sign, and passed around a photo showing its design. He explained his proposed location and described how much clearing must be done in order for the sign to be seen. A CMP pole has to be relocated. Barrie Munro asked Steve Burns if the Planning Board has jurisdiction over the sign. Steve answered that the Route One ordinance says it has to be 12 feet from the lot line. The Board of Appeals can change that, but this board can't. The 50 ft buffer should not be changed. John DeStefano says that the sign cannot be seen except in the one position. Mr. DeStefano pointed out that the neighboring sign is not 12 feet from the property line

Mr. Farrell opened the public hearing. Patrick McGarry, abutter, said that he did not expect as much clearing as there is. He commended the board on its concern about the drainage issue. Ice at the bottom has not been an issue in the past, and public safety is awfully important. He stressed that people need to see his sign, too. His patients can't find the driveway, right now. He does not want more trees cut. Stan Moody of Cape Neddick said that he drives by half-a-dozen times a day. The Sports Center is an eyesore. Regarding French drains, which he has, they seem to work well in the South of France, but not so well in the north or the mountains, where they freeze, and they end up like a trough. They are not practical without backup systems, he said. Mr. Farrell closed the public hearing.

Glenn Farrell asked for a written response about the freezing of the drains and the snow that will be piled up on top. Steve Burns wanted to know how wide will the road be in a heavy snow. Torbert Macdonald stated that the 1500-year flood and storm conditions must be evaluated.

Barrie Munro thanked John for the changed, improved landscape plan. He had visited the site and wished to make recommendations based on various articles, including 6.3.9.1, 6.3.10, 6.3.10.7, and 6.3.11, concerning the buffer, dead and existing mature trees, as well as the screening of parking areas. Appearance is nine-tenths of the law, Barrie said. He showed John DeStefano many recommendations, which John wrote down copiously. He explained how if certain trees die within 5 years, each must be replaced with 2 canopy trees, adding that that needs to be noted in the plan.

Terrance Parker, the project's landscape architect, then showed his ideas about taking some plants from the parking lot, planting smaller pine trees, and in essence reshuffling the plan they have now. Dave Marshall explained that they have to meet the original plan. Glenn Farrell asked for a representation of the changed landscape plan. It was arranged that Barrie would meet Terrance Parker and visit the site. John DeStefano asked that the project be allowed to go forward, and Glenn Farrell assured him that he has the right to continue to work.

OTHER BUSINESS.

Brett Horr said that the Spring Pond Estates and Homeowners Association had asked for an amendment for their Community Center. They want to swap the placement of a residential unit with that of the community center and need to know what to do. After discussion, it was decided that they have to bring a modified plan before the Board.

ADJOURNMENT.

Mr. Munro and Mr. Marshall motioned and seconded for adjournment. It was 10:00.