

York Planning Board  
Thursday, June 28, 2007, 7:00 PM  
York Public Library

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

Chairman Glen MacWilliams began the meeting at 7:00 and determined presence of a quorum. Beside Glen MacWilliams, Vice Chairman Tom Manzi, and Barrie Munro were in attendance. Glenn Farrell and Lee Corbin were absent. There were no alternates. Steve Burns represented Planning Board staff. Patience Horton took minutes. The meeting was televised.

**Public Input**

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

No one came forward to speak.

**Field changes**

Nate Alison of CLD Engineering presented a field change for the **Cape Neddick House**. In the salvaging of an old barn and its conversion into retail space, a basement door was originally proposed for primary access. Instead, a sliding door at the foot of a staircase became a better entrance. A retaining wall and the extension of the landing are part of the proposed change. Everything else in the application remains the same. Chairman Glen MacWilliams determined that a public hearing was not necessary, as the change was small.

**Motion** Barrie Munro moved to approve the change as described, commenting that the change does not appear to affect drainage. Tom Manzi seconded the motion, which passed, 3-0.

The next field change was proposed by Jonathan Hall of **York/Ogunquit Self-Storage Solutions**. The design of Catch Basin #4 on the property was not adequately catching the drainage during heavy downpours. The installation of 33 feet of granite curbing stretching from the gate westward catches everything that overshoots the catch basin, detracting it into the retention pond. Town Engineer John Treat has seen the curbing, and he does not have problems with the design. In discussion, the board decided to accept the change as a form of mitigation based on the request and the drawing.

**Motion** Barrie Munro moved to accept the field change based on the revised plan dated June 26, 2007. Tom Manzi seconded the motion, which passed 3-0.

**Minutes**

There were no Minutes to review.

## Public Hearings on Proposed Comprehensive Plan and Ordinance Amendments

The evening was organized around 5 Comp Plan Amendments and 14 Ordinance Amendments, all listed here.

CP-1	Inv & Analysis	Historic & Archeological Resources Chapter
CP-2	Inv & Analysis	Update the Natural Resources Chapter
CP-3	Policy	Watersheds Management Policy
CP-4	Policy	Storm Water Management Policies
CP-5	Policy	Un-fragmented Blocks of Undeveloped Land
AND		
Ord-1	Road Spec	Amend the Public Road Acceptance Ordinance
Ord-2	Zoning	Storm Water Management Standards
Ord-3	Floodplain	Control New Construction Below Elevation 12' in the Beach
Ord-4	Zoning	Road and right-of-Way Standards
Ord-5	Town Septic	Update the Town's Supplemental Septic Rules
Ord-6	Zoning	Density and Use Standards with Respect to Public Utilities
Ord-7	Zoning	Watershed Protection Overlay District
Ord-8	Zoning	Shoreland Amendments
Ord-9	Zoning	York Beach Zoning
Ord-10	Zoning	Vehicle Parking Limits and the RES-4 Zoning District
Ord-11	Zoning	Board of Design Review
Ord-12	Zoning	Special Exceptions
Ord-13	Zoning	Building on a Non-Conforming Lot
Ord-14	Zoning	Setback Rule in Existing Neighborhoods

Town Planner Steve Burns summarized the five Comp Plan Amendments. **CP-1, Inventory & Analysis, Historic & Archeological Resources Chapter**, is not a policy document, but a background chapter, he said. The former chapter was old and out of date, so it was edited, rebuilt, and maps were added. **CP-2, Inventory and Analysis, Update the Natural Resources Chapter**, was updated a year ago. Additional maps, including slope and elevation maps, have been added in the past year. It has no policy content. **CP-3 Policy, Watersheds Management Policy**, concerns utilization of natural boundaries. **CP-4 Policy--Storm Water Management Policies**, has to do with storm water standards. The finalized design sheet for driveway entrances has not been completed. **CP-5, Policy--Un-fragmented Blocks of Undeveloped Land**, concentrates on big, open spaces around Mount Agamenticus. The size of the land and the eco system are taken into consideration in this policy statement, the language of which was developed in part by York Land Trust, York Conservation, and Agamenticus to the Sea committees.

Glen MacWilliams opened the **Public Hearing** for anyone wishing to comment on the five amendments to the Comp Plan, but no one came forward to speak. The June 28<sup>th</sup>

meeting was the first public hearing for these amendments. There will be another in August, after which the Board of Selectmen will review the amendments and decide whether or not to place them on the warrant, Glen MacWilliams explained

In board discussion, Glen MacWilliams said that the passage containing the phrase “preserve or conserve” had been the subject of board conversation in the past. He said that “conserve” has ambiguities he would rather leave out, leaving the word “preserve” alone. Barrie Munro agreed with him. They decided to strike the words “conserve and/or” from the passage.

The meeting continued with hearings for the 14 Ordinance Amendments. **Public Works Director Bill Bray** was present to comment on the first three. He first applauded the Planning Board and Town Planner for taking on these ordinances. **Ord-1, Road Specifications, Amend the Public Road Acceptance Ordinance**, has to do with road acceptance standards and updating according to current design standards. The different road types (like local and collector) determine the necessary road construction. They are built differently, but with these ordinance amendments, a person can use a little flexibility in interpreting the road design, he said. Speaking about **Ord-2, Zoning, Storm Water Management Standards**, he said if roads are built correctly now, it might be possible to minimize the long-term damage from storms. He recommended upsizing culverts from 13 inches, which get clogged with leaves, to 15 inches in new construction. Of **Ord-3 Floodplain--Control New Construction Below Elevation 12” in the Beach**, he said that limiting development to 12” to restrict tidal impacts should make life after events like the Mother’s Day flood (2006) and the Patriot’s Day flood (2007) more pleasant.

Glen MacWilliams thanked Bill Bray. The public hearing for those three ordinance amendments came a little later. Glen MacWilliams asked for a show of hands from the audience indicating who wanted to discuss Shoreland, and then who wanted to discuss York Beach Zoning. The meeting went to the subject of York Beach, because the most people were attending for that.

**Ord-9, York Beach Zoning** has to do with proposed zoning changes at the Beach, said Steve Burns. The York Beach Renaissance Committee has been working on the changes for years. Pointing to a GIS map of the Beach, he explained how the proposed zoning changes would make the business zone three times bigger. He also showed the floodplain map and the commercial zone map. There is a question about whether the voters wish to expand the business zone, he said.

The Chairman read an email into the record. It was dated June 27, 2007 and came from **Alley and Laura Catyb** of York Beach. They are opposed to the zoning change, writing that it would reduce the residential zone in Cape Neddick. He also read a letter from **Maureen Regan**, who was in favor of the change.

Public Hearings were opened. The **Public Hearing for the first three ordinances** (Bill Bray's participation) was opened. No one came forward to speak, so it was closed. The **Public Hearing for Ord-9, York Beach Zoning** was then opened.

**Rick Bordman** said that the building height in York Beach center should be measured from the ground, not 12 feet above the ground, or else York Beach will look like Old Orchard Beach or Salisbury Beach. The top floors of those buildings should be available housing for the foreign workers who come every summer, and the owners should get a bonus for housing them there. He said that putting 1/8-acre lots in the transition zone is a mistake.

**Dawn Fernald**, Chairman of the Renaissance Committee thanked the committee members. Others had implied that Renaissance is self-serving, but, she said, they have asked for input from everyone. Plenty of committee members have no business interest in York Beach. They are only interested in making a better York Beach.

**Steve McNally** identified himself as a "York Beach Renaissance Addict." Since the last presentation before the Planning Board, the committee had had an outreach session at the Beach Firehouse. There was not much turnout, he said, but they managed to create about four large art pad sheets covered with ideas, which he had hung from the tables facing the Planning Board members, and pointed to as he described them to the board. The issues included raising the building height from 35 to 40 feet, though 60 was originally desired. The debate between commercial and/or mixed use for the center zone was also a prominent issue, as was an ongoing discussion about nature of the transition zone. Parking was turned over to the Town's Parking Committee and no longer concerns the Committee. The walk-able commercial center seems to be in agreement with everyone.

**John Welch** of York Beach said he objects to the expansion. The transition zone should not go half way to Shore Road. He asked what would happen to open space.

**Bob Dunfey** identified himself as the developer of the Ocean House at Short Sands and representative to the developer he referred to as "Berkshire." Berkshire is very interested in the future of the Beach Village, and the proposed zoning will complement Berkshire's plans. Bob Dunfey encouraged the citizens to support the new zoning proposal.

**John Matthews** of York Beach asked the Planning Board not to pass judgment on the issue until there is a full board [three of five Planning Board members were in attendance]. He said that flooding remains an issue in York Beach. There can be a lot of water in York Beach. Where is it going to go? he asked

Steve Burns read email dated May 28, 2007 from **John and Virginia Matthews**, who were not in favor of the transition or extension of the Beach Village. They said that people are making the zoning change for their own benefit.

**Manny DeCourt** of York Beach said he takes pride in his property. He wonders what it will be like when there is commercial development on one side of the street, when right across the street, it is residential.

**Ariel O'Brien** said the Renaissance Committee invites everybody to come to their Thursday morning meeting, held at 8:00.

**David Woods** of York Beach talked about a nearby large parcel of land that is mostly wetland that will be helpful with the drainage.

**Beth Folks** of York Beach said she is against the change, because she is afraid about who will come to the beach and what they will do with the property.

**Steve McNally** discussed uncontrolled development. He showed 26 pages of suggestions about development in the Beach. Those pages follow the Mission Statement. Prevention of the continued decay of York Beach is on reason to go through with the change, he said.

There was no one else to speak, so the Chairman closed the Public Hearing. In Board discussion, Barrie Munro said that there has to be a way to make the transition zone comfortable to the residents. Tom Manzi said that parking has to be at a reasonable distance, and the floodplain has to be managed. Glen MacWilliams said that there is disparity between the residential and commercial neighborhoods. Design guidelines for the transition zone may assure the quality of the environment. He said he would advocate mandatory design guidelines. Steve Burns said that the ordinance with design guidelines would not be ready for November, because it takes time to integrate design standards into the ordinance. He also said that the Planning Board should take on the task of creating the design guidelines directly, allowing the Renaissance Committee to give basics and supply the research, which the board can fine-tune.

**Motion** Barrie Munro moved that the **Ord-9, York Beach Zoning** is not ready to go forward to the Selectmen as it exists. Tom Manzi seconded the motion. It passed, 3-0.

Steve Burns said he wants the matter on the August Workshop Agenda and the Renaissance Committee to be invited.

**Ord-8 Shoreland Amendments** was discussed next. Steve Burns gave updates on what he called huge changes in the revised Shoreland maps. Town of York GIS Manger Brett Horr, and Code Enforcement Officer Cayce Dalton had gone over every wetland situation, ultimately giving reason for the State to reduce the number of proposed Resource Protection properties from 500 to 100. All the houses in the Lake Caroline area came out of resource protection, and at Philips Cove, only two houses out on the point remain—all the rest have been dropped from the designation. There were major changes at Birch Hill Road, Godfrey Cove, and along the York River, too, where areas with unstable coastal bluff remained.

The **Public Hearing** was opened. **Jackie Grant** thanked the board for listening to the concerns of the citizens and for getting the changes made.

**Dan Soule**, of Windmill Acres, thanked the board and staff, saying that resource protection should only be in areas yet to be developed.

**Greg Gosselin** thanked the board.

Steve Burns said that the “state guy” had to review many Maine towns with proposed resource protection changes. York was in a good position to prove its case earlier than other towns, because York has a professional staff and extensive use of GIS mapping to do the work. Plenty of other towns do not have those advantages.

The next largest turnout was for **Ord-14, Setback Rule in Existing Neighborhoods**. Steve Burns said that the ordinance amendment addresses a debate about the standard made by the new building setback.

The chairman opened the **Public Hearing**. Attorney **Brian Aromando**, represented **Steve Rossi**. A person putting an addition on a house should have the same rights as a person putting in new construction, just as the proposed ordinance amendment states. For 20 years, the Planning Board and Code Enforcement have applied the old ordinance a certain way, allowing new construction to have the same right as prior construction, with the same setback and line of site. The changed ordinance would continue to allow this equation to exist. He added that a neighbor of Steve Rossi is seeking to take adverse possession and further control of Steve Rossi’s property.

Attorney **Patrick Bedard**, representing **Robert Burns** of Raccoon Ridge, said that he disagrees with Town Planning about setbacks, and he hopes that Amendment K is not adopted. His client is in a rural zone where a 25-foot building should not be 15 feet from the road. Amendment K is inconsistent with the Comprehensive Plan in five zones, and the Board of Appeals and the Superior Court support that fact.

**Gary Littlefield** said that he believes that the addition to the Rossi property should be treated the same as new building is treated. Footnote K concerns people with non-conforming lots and should be used in all the zones so owners can have relief. There are no conforming lots on Raccoon Ridge, the target area.

Attorney **James Gilbert** presented himself as a citizen. The ordinance has been interpreted one way for 20 years, and it has allowed people to work with their homes. Everyone who lives around Steve Rossi is close to the road. If this amendment does not get passed, Steve Rossi cannot build. This does not have to do with the Comp Plan. It has to do with keeping 20 years of interpretation consistent.

There was no one else to speak. The Public Hearing was closed. In group discussion, the Planning Board became divided. Glen MacWilliams said that the amendment is not going to accomplish what is it supposed to. He said that the change should be reflective of the Comprehensive Plan. Barrie Munro said the Comp Plan wants a 100 foot vegetative setback, "and it ain't happening." He commented that there was not enough agreement between the board members to pass the motion, but he made the following motion.

**Motion** Barrie Munro moved to put the item, **Ord-14, Setback Rule in Existing Neighborhoods**, forward to the Selectmen. There was no second.

Speaking out of order, **James Gilbert** asked if it would go over in a different zone, but not be possible in his own area. Glen MacWilliams asked him to put the question to the Planner or in a letter.

Chairman Glen MacWilliams moved the meeting to **Ord-10, Zoning, Vehicle Parking Limits in the RES-4 Zoning District**, by opening the **Public Hearing**.

**Bob Romano** said that his neighbors could park as many vehicles as they want on their land, and they do. Beside a 10,000 square foot mobile home, they have five cars and two snowmobile units obstructing his otherwise beautiful view. "It looks hideous," he said. Glen MacWilliams said the ordinance is intended to limit the number of uncovered cars uncovered to just three. Other cars can go into to a covered/permanent structure, which could include temporary garages.

**Jennifer Lynch** came forward to give support to Bob Romano's request.

There was no further testimony. The Public Hearing was closed. There was no further board discussion. The meeting progressed quickly through the remaining ordinance amendments.

Steve Burns said that he had worked on **Ord-7, Watershed Protection Overlay District** with Ryan Lynch of the York Water District. Further protection of the watershed includes using Best Management Practices. Barrie Munro commented that we are all in concert with this one. In **Ord-5, Update the Town's Supplemental Septic Rules**, CEO Cayce Dalton had put five septic rules in sync with the State's regulations. **Ord-6, Density and Use Standards with Respect to Public Utilities** dictates the places where water and sewer should go, based on the growth area vs. rural area idea. For example, in GEN-1 and GEN-2, there should be no public sewer. **Ord-11, Board of Design Review** prevents things from being approved before all the appropriate parties have had a chance to see it. **Ord-12, Special Exceptions** changes seasonal conversion decisions from being made according to a use table to being a Code Enforcement decision. **Ord-13, Building on a Non-Conforming Lot**, which had been contributed by Richard Smith, prevents buildings from going on both lots when nonconforming lots are joined.

**During ensuing discussion, the Planning Board decided that all ordinance amendments, except Ord-14, Setback Rule in Existing Neighborhoods, and Ord-9, York Beach Zoning, would go forward to the Board of Selectmen.**

**Motion** Barrie Munro moved to send the following items forward to be posted for the selectmen's next hearing: Ord-1, Ord-2, Ord-3, Ord-4, Ord-5, Ord-6, Ord-7, Ord-8, Ord-10, Ord-11, Ord-12, Ord-13. Tom Manzi seconded the motion, which passed, 3-0.

### **In other business**

Site Plans and Subdivision Regulations for the new Temporary Events ordinance had recently been created in response to the upcoming (August 2007) Barbeque Festival to be held in York. The chairman opened the Public Hearing for input about the regulations. No one came forward to speak, so it was closed again.

In discussion, the board talked about requiring that a supply of drinking water would be on hand for the event-goers, but decided that element might not be of their jurisdiction. If the applicants do not have responsibility to provide water, they certainly have to provide make medical attention available, said Barrie Munro.

**Motion** Tom Manzi moved to approve the Site Plan and Subdivision Regulations for Temporary Events, as amended. Barrie Munro seconded the motion

In discussion, Steve Burns determined that the next public hearing for the Barbeque Festival would be at the July 12 planning board meeting.

**Vote** The motion passed, 3-0.

In other business, the York Village Business center signage was discussed. The board had approved the application with the exception of the signage on the pharmacy building. It remained a question if the proposed signage truly met the ordinance. The motion from the last meeting was re-read.

**Motion** Lee Corbin moved to give a conditional approval but defer the decision on the signage until it has been settled with Code Enforcement. Tom Manzi seconded the motion, which passed, 3-0. (made June 14, 2007)

Based on the language of the motion, it was decided the applicant's findings of facts would not be signed.

In other business, Glen MacWilliams had reviewed *Robert's Rules of Order*, and he affirmed the board's interpretation "quorum." As before, the majority of the board (three out of five members) has to be present to constitute a quorum. What has changed is that the majority of those three (two out of three) constitutes the passing of a motion. In the past, three out of those three had to agree on a motion for it to pass.

In yet other business, the Planning Board voted to approval of the Planning Board Bylaws.

**Motion** Tom Manzi moved to approve the bylaws, including the Code of Ethics and the Member Statement Signature Page. Barrie Munro seconded the motion. It passed, 3-0.

The meeting adjourned. The time was 12:00 A.M.