

TOWN OF YORK PLANNING BOARD  
THURSDAY, JUNE 24, 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 alternate Lee Corbin, who arrived ten minutes late, attended. Steve Burns represented the Planning Office. Patience Horton took Minutes. The meeting was televised.

Glenn Farrell opened a general Public Hearing for matters not included on the agenda. No one spoke, so he closed it.

**The York Planning Board will conduct a Public Hearing regarding Proposed Ordinance Amendments to be considered at the November General Referendum as follows.**

Glenn Farrell read the list of proposed ordinances and then opened the Public Hearing for discussion of the following items.

- 1) **Zoning Ordinance--Accessory Residential Use**
- 2) **Zoning Ordinance--Fishing Provisions**
- 3) **Zoning Ordinance--Regulate Overnight Filling of Vending Machines**
- 4) **Zoning Ordinance--Restaurant Seating as Accessory to Retail**
- 5) **Zoning Ordinance--Define Base Zones by Map**
  - Base Zoning Districts (5-5-04)**
  - Watershed Protection Overlay District (5-5-04)**
  - Elderly Congregate Housing Overlay District (5-6-04)**
- 6) **Zoning Ordinance--Reduce the Area in GEN-3 Zone**
  - Base Zoning Districts (5-6-04)**
- 7) **Zoning Ordinance--Boundaries of the Shoreland Overlay**
  - Shoreland Overlay District (5-6-04)**
- 8) **Zoning Ordinance--Structure Expansion Limits in the Shoreland Overlay**
- 9) **Zoning Ordinance--Setbacks and Buffers in Mixed-Use Shoreland Overlay**
- 10) **Zoning Ordinance--Refine Exceptions to the Building Height Limits**
- 11) **Zoning Ordinance--Shops for Building Small Boats**

Larry McKenna said that the area of land designated in Item 6, GEN-3 Zone, contains many big tracts of land. It would not be right if people could only build houses there, he said. The area needs other uses like small businesses or a fire station. He hoped it would not go through because the change will hurt the families that have lived there the longest.

Representing the York Conservation Commission, David Tibbetts was in favor of most changes in Item 7, Boundaries of the Shoreland Overlay, and Item 8, Structure Expansion Limits in the Shoreland Overlay, but did not understand why/how expansion could be *parallel* to the resource. Steve Burns said that different language, concerning expansion

*away from* the resource, was being proposed by the Board of Selectmen. The two groups would come together on a decision during the upcoming July 6 joint meeting. David Tibbetts said he would lend support to ordinance changes that would provide the greatest buffer zones possible.

Rick Boardman commented on a few different proposed ordinances. He referred to Item 1, Accessory Residential Use, as a good start. Amendment 6, GEN-3, would impact long-term property owners. He asked for an explanation of Amendment 7, Shoreland Boundaries. Steve Burns answered that the changes would not affect standards or use tables. It specifically includes more streams into the shoreland system, and in doing so, the ordinance tightens up the Shoreland map. Rich Boardman said that his property is in two zones. One allows 2-acre lots, and the other allows 3-acre lots. He did not believe that benefits of the proposed change would outweigh the current conditions. He also complimented Barrie Munro for challenging more citizens to participate in the Public Hearing process.

Mac Booze, a 20-plus-year resident of Woodbridge Road, described a need for a formal Impact Study before deciding on Amendment 6, GEN-3. He said that GEN-3 could affect the quality of life, change real estate values, and possibly place a larger tax burden on homeowners, in that the number of business opportunities was being reduced. Perhaps the Maine Municipal Association had guidelines that might demonstrate a correlation between development and property values, he said. He asked how homes with protective covenants that prevent other uses than residential, though the location might be zoned commercial, would be treated. Glenn Farrell said that the deed takes precedence over the zoning. Mac Booze, who had cut apart and pasted maps together to help form his understanding and opinion, described and proposed an altogether different, J-shaped configuration to a changed GEN-3 Zone, which would include a commercial corridor at the end of Woodbridge Road. He added that GEN-3 allows industrial uses.

Barrie Munro read from the Comp Plan about the Town's desire for increasing residential zones. He commented that the BUS-1 Zone hardly has any land left for expansion. In the new, proposed zone, expansion could occur, if the lot is large enough. Dave Marshall, calling it a "piecemeal" approach to reconfiguring the zone, said that Mac Booze had a good idea, worthy of consideration. Commercial development could occur through conversion in pre-existing buildings.

Larry McKenna asked about the use restrictions for the expansion of a cemetery. He also said that Mary Davis's property could hold one hundred houses--and imagine the impact that would have on the town. If you get rid of Gen-3, why not wipe it out in York Village, too? he asked.

Pat Bristow-Carrico said her property is partly in GEN-3 and also in the Route 1 Zone. She asked if, as a retired pastor who plans to form a religious retreat center on her 6-acre property, she would be able to continue with her plans after the zone change. Dave Marshall said he believed it would be an allowable use. Glen MacWilliams thought that there

might be some lodging restrictions. Pat Bristow-Carrico said that she prefers her property to stay in GEN-3.

Mac Booze asked if Item 1, Accessory Residential Use, permits a separate unit for the targeted aged-and-infirm population. Barrie Munro said that that point has yet to be clarified. Lee Corbin said that homeowners could potentially add a single-family residence. Mac Booze asked how illness is certified and if the sick person has to move out, if she gets well. Steve Burns said that the space is allowable from the point when the person needs care, and Glenn Farrell said that once the illness is certified and the person goes away, the residence has to be turned back to how it was before.

Michelle Moody said that maybe moving entirely to RES-1 is too extreme in Item 6, GEN-3. It is possible to get rid of plenty of uses. Why not get rid of the most obnoxious and keep small business and industry? Barrie Munro said it would not take much to get rid of some of those uses. Lee Corbin agreed and said not to reinvent the wheel, but rather take out a few spokes.

Mike Cuomo had comments about Amendment 7, Boundaries of the Shoreland Overlay. He was not sure if allowing a ditch or culvert to be considered a connector between wetlands was a good idea. Steve Burns explained that if the wetlands were connected before the barrier was made, then, according to the amended ordinance, they are to be considered contiguous afterward. Glen MacWilliams said that the Army Corps of Engineer standards prohibit the barrier from defining the separation of the wetlands. Ultimately, whether barriers are manmade or natural, the hope is that there will be greater flood control and protection in the future. Mike Cuomo pointed out a syntax problem in 3.8.1(a). He also suggested that the concept of using the Shoreland Overlay District Map as a reference might be overly technical for a general referendum.

Referring to the Windmill Acres application of May 13, 2004, Steve Burns explained how the Planning Board had to determine that the boundary of the wetland only came to a certain culvert and did not go through it to include the head of the wetland. With the proposed amendment, the Board will request a change in the map with a vote by the voters. He also explained how, if either Item 7, Boundaries of the Shoreland Overlay, or Item 9, Setbacks and Buffers, pass, setbacks will remain at 35'. Should both amendments pass, the setback will become 100'.

That was the end of the Public Hearing. Board discussion then focused on the individual items.

### **1) Zoning Ordinance--Accessory Residential Use**

Some Board members thought it good if the Accessory Residential Use Ordinance could allow the accessory living space as a separate structure, as Mac Booze had suggested. Glen MacWilliams asked what the size limit on accessory space might be. Steve Burns said that putting a small dwelling in a huge house would be disproportionate. Dave Marshall said that since the space is designed for sick people, 1200 or 2,000 sq ft would

be too big. Barrie Munro said that a 20 x 30 ft space would be adequate. Glen MacWilliams suggested using standards available through HUD. He said 550 to 600 sq ft would be suitable. Dave Marshall thought 1,000 feet or 30% of the size of main house might work. They discussed potential scheduling of inspections/enforcement by CEOs or Housing.

There was no further discussion in the following items:

**2) Zoning Ordinance--Fishing Provisions**

**3) Zoning Ordinance--Regulate Overnight Filling of Vending Machines**

**4) Zoning Ordinance--Restaurant Seating as Accessory to Retail**

Going out of order, the discussion went to Amendment 6, then Amendment 5.

**6) Zoning Ordinance--Reduce the Area in GEN-3 Zone**

Glenn Farrell said he liked the idea brought up earlier of excluding certain uses. If the egregious uses are trimmed out of there, the profitable uses will be left. Steve Burns said that the neighborhoods could be zoned Residential. The uses could be narrowed down. . Truck stops and saw mills could be gotten rid of. Lee Corbin agreed. Making global changes, as proposed in the amended ordinances, asks for more problems, but treating each area on a local basis is the most judicial way to move toward the Comp Plan. Steve Burns suggested flagging the uses the Board wishes to eliminate, like shopping malls, building supplies and lumber yards over 2500 sq ft, bottling plants, truck terminals, truck stops, and auto body and vehicular repair shops. Services that could stay might include small stores, banks, antique shops, laundries/dry-cleaning stores, and publishing companies. Glenn Farrell suggested the Board members go over the options beforehand, and then take suggestions to the joint July 6 meeting with the Selectmen.

**5) Zoning Ordinance--Define Base Zones by Map**

**Base Zoning Districts (5-5-04)**

**Watershed Protection Overlay District (5-5-04)**

**Elderly Congregate Housing Overlay District (5-6-04).**

Richard Smith asked if the amendment has to go to the vote before the zoning is "straightened out." Glenn Farrell said that it was time to send it forward. Steve Burns described the process of determining the wetland/shoreland factors when he had to re-view them for the Shoreland Committee a few years ago. The information in the system cannot generate accurate information. The wetlands have to be looked at a coherent system.

Glen MacWilliams described it as a painful approach that has to be taken because of the environmental issues the town faces. Approached as systemic hydrological systems, the wetlands/shoreland issues include flooding. The situation at the Beach during high tides and storms is taken into account here. David Marshall agreed with the importance of the issues, but said that there must be measurable limits so that people can have proof that gains are being made. The gains are wanted, but the amendment is too much at once, and

the people will not understand it. Lee Corbin described it as a lose-lose situation for the public, but a win-win one for conservation.

Glen MacWilliams said that the Board does not seem to want to acknowledge what's happening environmentally and naturally, nor does it want to give folks the option of preserving the benefits of setbacks and buffers when the problem with flooding is well known. Here is a piece of legislation placed in front of the public that would allow them to protect against future flooding, and that is the issue. If the Board knows there is a problem, the Board should put it before the public. If people are allowed to build in the setbacks because the wetlands are not looked at as contiguous, then the problem worsens. We will have buildable area with appropriate buffers for contiguous wetlands. Building there affects wetlands to hold more water, and we increase the capacity for flooding. Present the voters with a way to deal with it. This is the way to do it. Otherwise, they will find their buildings under water, Glen MacWilliams said.

Dave Marshall said the amendment should be softened up to make some gains. Steve Burns said that the contiguous piece of the amendment came from the Windmill Acres/Godfrey Pond loss where the road cuts through the shoreland. If we are preserving systems, there is no reason to cut the wetland there. It cannot be quantified. It started as a way to correct the Shoreland map. He showed the corrected Shoreland Overlay District Map, calling it a descent set of standards. The recommended changes by David Tibbetts were very good, he said. Dave Marshall agreed to put the amendment it out there and see what happens.

**VOTE** Glenn Farrell asked who was in favor of sending Amendment 5 forward. With a show of hand, 4 out of 5 were in favor. Richard Smith was not.

**7) Zoning Ordinance--Boundaries of the Shoreland Overlay  
Shoreland Overlay District (5-6-04)**

There was no further discussion on Amendment 7.

**8) Zoning Ordinance--Structure Expansion Limits in the Shoreland Overlay**

Steve Burns said he would fix a problem with the language because it was apparent that the statute did not state that the Board is making the ordinance more restrictive.

**9) Zoning Ordinance--Setbacks and Buffers in Mixed-Use Shoreland Overlay**

No changes for this proposal were discussed.

**10) Zoning Ordinance--Refine Exceptions to the Building Height Limits**

The possibility for a waterslide to come to the Route1-4 zone would hold an exception to the height rule. Otherwise, the Board confirmed that the proposed height for silos and barns would remain as presented. The height for churches would average the height of the 3 current churches with steeples in the village, which is 80 ft.

### **11) Zoning Ordinance--Shops for Building Small Boats**

There was no further discussion about this proposed ordinance.

### **Other Business**

Steve Burns passed out a letter from Sandra Steele, who had written the Selectmen, with copy to: the Planning Board. She has a problem outside her home on Lindsay Road, where speeding traffic has resulted in numerous accidents and one fatality in the years since she moved there. She asks for that a remedy be pursued.

Steve Burns said that printed copies of Draft 7, dated June 3, 2004, and accompanying maps are available at the Town Clerk's office at Town Hall. Digital copies are available on the Planning Department's web page, [www.yorkmaine.org](http://www.yorkmaine.org).

The Meeting ended at 9:40.