

**TOWN OF YORK PLANNING BOARD
THURSDAY, JANUARY 8, 2004, 7:00 P.M.
YORK PUBLIC LIBRARY**

Chairman Glenn Farrell started the meeting at 7:00. Barrie Munro, Dave Marshall, Dan Remick, and alternate Richard Smith, who voted in place of absent Glen MacWilliams, attended. Town Planner Steve Burns represented the Planning Office. Patience Horton took Minutes. The meeting was televised. There were 5 motions made during the meeting.

Minutes Review and approval of Draft Minutes of November 6, November 13, November 17, November 20, and December 11, 2003.

Motion Barrie Munro moved to accept Minutes of November 6, November 13, November 17, November 20, and December 11, 2003, as submitted. Dave Marshall seconded the motion, which passed, 5-0.

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

Michelle Moody, Chairman of the Board of Selectmen, asked that at least one Planning Board member becomes involved in the Granite Woods Phase II Subdivision hearings, as a small portion of that South Berwick 71-lot subdivision extends over the line into York. Also, regarding water resources, she affirmed her support for the Cape Neddick River Association, stressing that all water resources need to be protected equally all over town.

Stan Moody, Vice Chairman of the Conservation Commission, stated that all rivers and major watersheds in York, including the Cape Neddick River, Josias Norton River, Chicks Brook, and Brave Boat Harbor, need consideration. Rather than a York *River Ordinance*, there should be a York *Rivers Ordinance*.

Mike Conlin stated his problems with proposed ordinances. He does not see a need for the York River Overlay District, not only because the River is healthier than it has been in ages, but because the District impinges on landowners' rights and uses. The ordinance will drive taxes up. He believes in conforming to State guidelines, but not going beyond those standards. Neither is it right for a landowner to pre-pay an engineer for a project, when the landowner ultimately has little control over the outcome.

Applications

Webber Place Condominium Conversion. 35 & 37 Webber Road. Map 125/Lot 275. Public Hearing. Application for Site Plan Approval to convert ownership of existing duplex to condominium ownership. No physical changes have been requested.

The Chairman opened and closed the Public Hearing, as no one came forward to speak. Steve Burns stated that some loose ends had been tied in that the Surveyor's Certification and the Application Fee had both been submitted. A Fire Protection signoff was necessary and pending. Sewer and Water and Town Attorney signoffs were possibly needed, but there appeared to be no issues.

Motion Barrie Munro moved for conditional approval subject to hearing from the Fire Chief. Dave Marshall seconded the motion, which passed, 5-0.

Motion Barrie Munro moved to accept the approved application as submitted on a conditional basis pending the Fire Chief's signoff, signoff approval of the condominium by the Water and Sewer Districts, and after review by the Town Attorney. Dan Remick seconded the motion, which passed, 5-0.

Old Business

Discussion with Cape Neddick River Association. The Association has requested this meeting to discuss water resources protection town-wide.

Linda Scotland, Chairman of the Cape Neddick River Association, introduced Larry Reilly, who has been instrumental in the efforts of the group. Issues surrounding cleaning up the River include prevention of cutting along the banks, which causing silting, a problem upriver sewer pipe, and leaking septic systems. She asked about §8.3.3.4, allowing additional cutting, and Steve Burns explained that perhaps a water-dependent building (e.g. marina) would require such cutting. Linda Scotland handed out Brunswick Coastal Protection Zone information about hazards of spreading fertilizer in winter, causing algae bloom when washed into the water. She stated that septic systems must be pumped out every 3 to 5 years and recommended a Town-wide effort to complete that goal, if overcoming the shortage of funds and code enforcement manpower could occur. She suggested extending River ordinances onto the Nov. ballot, if May is too hurried.

Discuss Proposed Ordinance Amendments. Review Draft #2 (dated December 11, 2003), make amendments as needed, decide which amendments to bring forward, and set public hearing schedule for early 2004.

Amendment 1, Structure Expansion Limits in the Shoreland Overlay. Glenn Farrell stated that the language surrounding the 30% expansion is not clear. Code Enforcement Officer Mark Badger said that the method taken is to look at the whole structure as of 1989 and then calculate 30% of the non-conforming portion. Glenn Farrell suggested keeping the rules the way they are, but making the language clearer.

Amendment 2, Shoreland Variance Standard, and Amendment 3, Setback and Buffer in Mixed-Use Shoreland, were considered "fine" and drew no discussion.

Amendment 4, York River Overlay District, discussion included whether the District should include all rivers. Barrie Munro said that a decision could be made after Public

Hearings are conducted. Glenn Farrell thought that changes could also be made even a year away, if warranted. Mark Badger brought up the difficulty of dealing with tributaries and how they overlap with shoreland areas or how they are exempt from shoreland rules. By definition, and after reading different definitions, the Board decided to henceforth define tributaries as perennial streams, meaning those streams that return year-after-year. Impervious surface ratios, buffer zones, construction requiring movement of 1 square-acre of land, or more, and expansion of shoreland nonconformity were also discussed. Steve Burns suggested that expansion away from the resource be made clear.

Amendment 5, Minor Dimensional Variances, and Amendment 6, Site Plan Review Authority, brought no discussion.

With **Amendment 7, Buildings and Structures**, Dan Remick recommended a change in fence height from 6 ft. to 8 ft. in §5.1.5.2, with which other Board members agreed.

There was no change in **Amendment 8, Clean Up Outdated Telecommunications References**.

For the body of **Amendment 9, Formula Restaurant Prohibition**, Barrie Munro submitted the following text, "Findings of Fact—Basis for Prohibiting Formula Restaurants."

- The Planning Board finds that this policy is necessary to preserve York's small town and rural character;
- The Planning Board finds that Formula Restaurants, as defined, do not reflect the unique character of the community and the desired aesthetic ambience that York wishes to preserve; and
- The Planning Board finds that Formula Restaurants, as defined, threaten the preservation of York's natural condition; and
- The Planning Board finds that the use, scale, architectural design, decor, site layout, landscaping, and signage are important factors in the overall aesthetic and historic character of the community; and
- The Planning Board's intent is to minimize and/or avoid the "auto-urban" development influence believed to be an inherent element in Formula Restaurant Business; and
- The Planning Board notes that traffic congestion is already a serious problem and believes that such types of restaurants are likely to increase traffic congestion; and
- The Planning Board believes such types of restaurants are likely to increase litter, garbage, and rubbish offsite; and
- The Planning Board finds that preservation of York's small-town character and rural ambience is consistent with its Comprehensive Plan; and further,
- The Planning Board finds that Formula Restaurant Businesses potentially threaten the vitality of York's existing small-business community in contradiction to York's Comprehensive Plan; and

- The Planning Board finds that historically, York has been a small, homegrown business community, locally owned and operated, and wishes to preserve this contextual character.

Barrie Munro described the above Findings as “the second layer of defense.” Current strategy disallows co-locations, such as a Dunkin’ Donuts in a convenience store. The Board also discussed the two-cash-register situation and the potential elimination of convenience stores, should that become necessary.

Amendment 10, Traffic Study Requirements, had been discussed at a previous time.

Mark Badger addressed **Amendment 11, Revised Septic Standards**. It will take 3 or 4 years to accomplish the location of all leach field systems, conduct the required pumping, and provide necessary documentation. He suggested placing a fee in the ordinance equal to 1 hour per site. Data base accessibility will aid the designated inspector regarding contractors and sites. Mark Badger supports the proposed 24” soil separation from the treatment component concept integral with the supplemental plumbing code in the watershed district.

FY05 Budget Request. It’s that time of year again.

Motion Barrie Munro moved to send the budget, including a \$4500 increase for administrative costs, forward to the Budget Committee. Glenn Farrell seconded the motion, which passed, 5-0.

Other Business/Adjourn

Mark Badger reported that exhaust fumes from the DeSario woodworking shop had been detected by a Code Enforcement Officer, notice of which was either in the works or already sent to Mr. DeSario. Steve Burns announced the following items. The 2004 Planning Board meeting schedule was passed out, as was a memo concerning a workshop/retreat planned to guide the Board through the ordinance-changing process. Also, York Fitness will return to the Board over Public Work’s request to remove 3 or 4 trees from its driveway sight distance. Also, work on certain chapters of the Comprehensive plan will have to be scheduled. Also, a memo received from Planning Board member Glen MacWilliams was to go on the following agenda, as he was not present for discussion that evening.

Also, a letter was passed around from the Town Attorney stating that York has jurisdiction, but has not yet established issues, in the Granite Woods Phase 2 Subdivision.

Motion Glenn Farrell moved to acknowledge York’s jurisdiction in the Granite Woods Phase 2 Subdivision, which will be assured by sending a letter to the Town of South Berwick Planning Board so stating. Barrie Munro seconded the motion, which passed 5-0.

The meeting adjourned at 9:45.