

York Planning Board
Thursday, April 24, 2014, 7:00 P.M.
York Public Library

Call to Order, Determination of Presence of Quorum; Appointment of Alternates

Chairman Todd Frederick called the meeting to order at 7:03. A quorum was determined with three people voting: Chairman Todd Frederick, Peter Smith, and alternate Amy Phalon. Ms. Phalon was asked to vote as a full member. Mr. Smith was recently appointed as a full member of the Board, to on three-year term. Development Director Steve Burns represented staff. Patience Horton took minutes.

Public Forum

No one came forward to speak.

Minutes

There were no minutes to review.

Field Changes

There were no filed changes.

Town of York - Bog Road Fields Expansion 40 & 50 Bog Road Map: 0090 Lots: 0084-X and 0084-A. Proposal to construct a new athletic field with associated infrastructure at 40 Bog Road, with vehicular access provided through the adjacent Town property.

The application was heard at the April 10, 2014, application hearing. A few items were left to address tonight. Steve Burns said that since the last meeting, he was told the HDC had no concern with this property. The applicant has addressed every section that is applicable. They have submitted a revised Findings of Fact. They brought Mylars. The selectmen approved deed restrictions on the drainage easements. They added floodplain on the map, and they added the necessary, standard plan notes.

Motion: Peter Smith moved to open the public hearing. No one came forward to speak.

Motion: Peter Smith moved that we approve the application for the Bog Road athletic field facility. Map 220, Lot 7 & Lot 8. Amy Phalon seconded the motion. There was no discussion. The motion passed, 3-0.

Motion: Amy Phalon moved that we authorize the Chairman to sign the Findings of Fact, as amended. Peter Smith seconded the motion. There was no discussion. The motion passed, 3-0.

The Board signed the Mylars and Findings at that time.

Ordinance-Related Topics:

- **Timeline for November General Referendum**

- **Septic Subcommittee Report-Out**
- **Medical Marijuana**
- **Harbor/Zoning Amendments with the Harbor Board**

Timeline for November General Referendum

Steve Burns explained how the planning department organizes a referendum schedule a year, or more, in advance. Public hearings, notices of public hearings, preference votes, notification of newspapers, and postings in Town hall are strategically laid out on a checklist. Dates are calculated backwards from the referenda day so that notification of the clerk is 45 days away, and Planning Board public hearings coincide with the Board of Selectmen's public hearings.

The November 2014, referendum schedule was put in place a year ago, and the dates for next year's May 2015 checklist has already been decided. The new Town Planner will work on November, 2015, a year-and-a-half out, he said. The spreadsheet outlining the process is on the Town of York web page. To find it, go to: Planning>Digital Materials for Planning Board Meetings>Timeline to Prepare for the November General Referenda.

Septic Subcommittee Report-Out

Peter Smith reported on the Septic Subcommittee, which was made up of real estate professionals, septic inspectors, Town CEO Leslie Hinz, and citizen Helen Rollins. They met five times. Their original recommendation was for the buyer to initiate the inspections, results of which would not have to be shared with anyone, even the Town.

Steve Burns said, "That does not work for the Town." He, with subcommittee input, wrote the final amendment based on Massachusetts Title 5. In that case, the seller is required to do an inspection and provide the Town with an inspection report at the transfer of the property.

When the seller pays for the inspection, it is a "third-party inspection." The State of Maine requires that the results of a third-party inspection must go to the Code Office. The subcommittee felt strongly that inspections done in York should be done by a licensed site evaluator or a certified septic inspector.

Steve Burns said there is strength in the process of having a subcommittee develop the ordinance on a controversial matter like this. The ordinance should hold up better through the selectmen's process and later public hearings.

Motion: Amy Phalon moved that we post this draft for public hearing. Peter Smith seconded the motion. There was no discussion. The motion passed, 3-0.

Medical Marijuana

Steve Burns said Medical Marijuana is a land use issue. When approving other land uses, like banks, pharmacies, and stores, "the use goes with the land." But, he has been receiving feedback not about the land use, but about the tenant. So, there are two aspects of the new ordinance, the land use and the licensing.

Land use, which is zoning, includes the land, the building, the site, the parking, and the access. The business licensing is for the business operator. That license is called the Medical Marijuana Grower License. It is issued annually. The Town can check all the licenses annually. That is enforceable.

There are people who have a prescription for medical marijuana. They can grow in their own home, or a caregiver can grow it for them in their home, and this ordinance does not address that. Right now there is little concern about a registered dispensary where medical marijuana can be sold. There isn't a dispensary in York, but eventually there might be one. The ordinance does not address a dispensary.

This ordinance amendment addresses the people an offsite facility, which is not a light operation. Neighbors of the existing growing facility, that is in York, say it is a heavy commercial entity.

The ordinance amendment proposes to put offsite growing facilities and the (eventual) registered dispensary in the Route 1-3 Zone. That zone is the heaviest, commercial zone in York. It runs approximately from the Mic Mac to Wild Willie's. Steve Burns said a medical marijuana facility in that location would be, "front and center, and not hidden."

Land use approval would come from the Planning Board. Coming before this board puts the applicant through a public process. They would have to be on TV. All the neighbors would be notified, and everybody would hear what is happening. This is a very important part of the proposed ordinance amendment. Neighbors of the current growing facility, and other concerned citizens, are very uncomfortable right now, because they don't know what's happening next door. That will change.

The land use performance standards and business licensing elements that are of concern to the Planning Board include:

- The initial tenant must have a State approval.
- There is a proximity limit. One facility per lot, which cannot be closer than 250' to the next lot, where another grower is.
- No more than one dispensary in York.
- The facility cannot be in "Safe Zones," where there are excessive penalties for drug related activities. Several years ago, the Selectmen named specific Safe Zones in York. They are around beaches, parks, and schools, including Long Sands Beach, the Nubble, the top of Mount A, and all the schools. The selectmen's list can be amended to add schools that might be in the Route One zone.
- Neither the patients nor the customers can go to the off-site growing location. It is not a point of sale. It is a place for growing and preparing medical marijuana.
- Security is a major consideration. Growing facilities have a large volume of valuable drugs. Just as robbers have broken in to pharmacies for Oxycontin, they could break into these buildings, too. Growers should have to meet with the police to verify their building is properly secured. Verification of that can be given

- to the Planning Board as part of the application. The specifics of the security plan will not be in the Planning Board file. That information won't be going on TV.
- The land use permit is contingent with a State permit. If a grower loses their State permit, the land use approval will be lost.
 - The business license. A grower has to have a business license. If there is a lapse of two years, the land use approval is gone. To get another, they have to go through the public process again.
 - The business license requires facility inspection by the police department. Facility inspection is not a code enforcement inspection.

The business license is approved by the Board of Selectmen and reviewed annually. It is a simple business license that guarantees a public meeting once a year in front of the Board of Selectmen.

Foods with medical marijuana are allowed, according to State administrative rules. That license is easy to apply for.

Chairman Todd Frederick invited anyone present to speak informally to the board.

Chuck Ott said he read the proposed ordinance amendment and found it to be fair-minded. It addresses the concerns he's had about the growing facility. He wanted to note that the Legislature passed LD 1590.7, an amendment to the medical marijuana act, allowing for elected officials to be able to visit growing facilities. He said that is a step in the right direction.

Steve Burns said officials have the right to go in and inspect the building, as it is any other building. As a code officer, he can knock on the door, but he doesn't have the right to go right in. He does not have the right to go into the property without the permission of the owner, the attendant, or a court order. While there is a right to enter the buildings, it is limited based on case law.

Steve Burns said he is still listening to feedback from citizens, and he making some changes to the ordinance based on feedback. After the amendment is posted on May 1, the Planning Board can change it after each of two public hearings, and the Selectmen can change it after their first public hearing.

Todd Frederick said the York Weekly recently gave an editorial about the highly deliberative process the Planning Board is going through with this amendment. "We are trying to do what is best for our town," he said.

Motion: Peter Smith moved that we authorize Mr. Burns to move the Medical Marijuana amendment forward into the process for November general referendum. Amy Phalon seconded the motion. There was no discussion. The motion passed, 3-0.

Harbor/Zoning Amendments with the Harbor Board

Steve Burns explained that Amendment 4 requests that a framework is established for the Harbor Board, in which they require an engineered plan with every application they receive. They don't have the provision in their code allowing them to outsource the technical reviews and get technical assistance. That provision is available through the zoning ordinance. With this amendment, the plan must be prepared by a Maine licensed professional engineer, and the signature block will be printed by the engineer. This formalizes the procedure, and the application is reviewed properly.

In Amendment 5, the Harbor Board gains jurisdiction for certain harbor standards to be shifted from the Code Office to the Harbor Board. For example, the ordinance encompassing certain docks with of the width of the navigation channel should be in the Harbor Board's purview. Some State standards will continue to be administered by the CEO.

Motion: Amy Phalon moved that we post Amendment No. 4 and Amendment No. 5, having to do with moving certain language from the zoning ordinance into the harbor ordinance, for the public hearing on May 26. Peter Smith seconded the motion. The motion passed, 3-0.

Steve Burns listed three other amendments that are going forward in November, but are not part of the Planning Board's concern: No. 7, the massage facility and massage therapist licensing; No. 8, out-of-the-ordinary events regulation; and driveway regulations.

The language in the MS4 codes ordinance has been changed to make it more readable, he told the board.

iPads and Web Page

The new iPads and email addresses have worked well for the board members. This the first department in the Town of York to go all-electronic. The new Town web page has been up for about two weeks and is not quite perfect.

Other Business

Update on Hiring Process—Town Planner

Interviews for a new Town Planner were held recently. Initially there were 28 high-quality applicants, and that was narrowed down to seven. No one has been hired yet.

Keefe Findings of Fact

Todd Frederick made two corrections to the Keefe findings.

Motion: Peter Smith authorized the Chair to sign the Findings of Fact for Quentin and Mary Jane Keefe, 43 Riversedge Drive. Amy Phalon seconded the motion. There was no discussion. The motion passed, 3-0.

Adjourn

8:27