

1. Planning Board Meeting Materials

Documents:

[2022-3-10 PLANNING BOARD AGENDA.PDF](#)
[FEBRUARY 24, 2022 PLANNING DRAFT_2 MINUTES.PDF](#)
[FEBRUARY 17, 2022 PLANNING DRAFT_3 MINTUES.PDF](#)



**Public Meeting Notice
York Planning Board
Thursday, March 10, 2022
7:00 PM**

The York Planning Board will hold a remote meeting on Thursday, March 10, 2022, at 7:00 p.m. This meeting will take place using Zoom.

Virtual meetings are allowed pursuant to 1 M.R.S. § 403-B and per adoption of the “Remote Participation Policy” by the York Board of Selectmen on October 18, 2021.

Allow your computer to install the free Zoom app to get the best meeting experience.

ZOOM MEETING INSTRUCTIONS

You may join a Zoom webinar.

When: Mar 10, 2022 07:00 PM Eastern Time (US and Canada)

Topic: Planning Board Meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/82669183039>

For contributing public comments during any public hearing/comment portion of the agenda, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment/input.

To join the meeting via a phone call you may do so by utilizing the following phone numbers:

To join via iPhone one-tap:

US: +19292056099,,82669183039# or +13017158592,,82669183039#

Or to join via Telephone:

Dial (for higher quality, dial a number based on your current location): US: +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799

Webinar ID: 826 6918 3039

International numbers available: <https://us02web.zoom.us/j/82669183039>

To view and listen to the meeting live you may also go to the Town of York’s homepage or to the following URL on your computer or device: https://townhallstreams.com/towns/york_meetings if there is not a meeting already in progress.

Plans and agenda items can be found with the Planning Department at York Town Hall, and on the York Planning Board’s webpage under “Recent Agendas, Minutes and Meeting Materials.” Public comments may be taken during the Public Forum portion of the meeting’s agenda. Written comments should be submitted to the Planning Board via mail or emailed to dbrown@yorkmaine.org well in advance of the meeting.

All meetings shall be adjourned no later than 10:30 PM, unless extended by unanimous consent of the Board.

AGENDA

1. **Call to Order; Determination of Quorum; Appointment of Alternates**
2. **Field Changes**
3. **Public Forum**
4. **Discussion/Review-** Comprehensive Plan Update/Climate Action Plan
 - A. Update on Climate Action Plan (moving forward)
 - B. Update on Comprehensive Plan Process
5. **Discussion-** 21-day complete application timeframe and Planner review/sign-off
6. **Discussion-** Board Meeting Schedule and Timelines
7. **Discussion/Review-** Possible Ordinance Amendments for November 2022
8. **Review-** Findings of Fact
9. **Minutes**
10. **Other Business**
11. **Adjourn**

All meetings shall be adjourned no later than 10:30 PM, unless extended by unanimous consent of the Board.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

York Planning Board
Thursday February 24, 2022; 7:00 P.M.
Zoom Platform

Call to Order; Roll Call; Determination of Quorum; Appointment of Alternates

Chair Kathleen Kluger called the meeting to order at 7:00 P.M. A quorum was determined with five people voting: Kathleen Kluger, Vice-chair Wayne Boardman, Board Secretary Gerry Runte, Peter Smith, and Al Cotton. Alternates Ian Shaw and Kenny Churchill were present but did not vote. Planning Director Dylan Smith and Land Use Planner DiCarlo Brown represented staff. Chris Di Matteo was the peer reviewer for Pine Ledge Motel and Long Sands Village Elderly Housing. Lee Jay Feldman of the Southern Maine Planning and Development Commission was the peer reviewer for Mt Agamenticus Parking & Bathroom Improvements. Patience Horton was the recording secretary. Votes were tallied via roll call.

Heard tonight: Pine Ledge Motel, Brookside Landing, Long Sands Village—Elderly Housing Development, and Mount Agamenticus Parking & Bathroom Improvements.

Public Forum

Janet Drew observed that the Board of Appeals' had reviewed the Long Sands Elderly Housing Development application and sent it back to the Planning Board. She also said that since so many trees were removed, there will be an avalanche on the Long Sands property during storms.

Chair Kathleen Kluger closed the public forum.

Field Changes

There were no field changes.

Application Reviews

Pine Ledge Motel, 2963 U.S. Route 1
Map/Lot 0001-0004 owned by Michael Ramsey
Application is a site plan to re-develop existing seasonal workforce housing on the lot.

Bill Gerrish, Northeast Civil Solutions

This is an application for final approval. The Board gave preliminary approval in December. The matter was on the January 27, 2022, agenda, but was not heard.

The Water District letter of capacity has been received. It has an electronic signature. It is not clear if comment has been received from the Police Department.

- Motion: Al Cotton moved to accept the application for Pine Ledge Motel, U.S. Route 1, Tax Map 1, Lot 4, as complete for final review. Seconded by Peter Smith, there was no discussion. The motion passed 5-0.
- Motion: Al Cotton moved to open the public hearing for Pine Ledge Motel. Seconded by Peter Smith, there was no discussion. The motion passed 5-0.

38 Abutter Charlene Wax asked that the location of the water main be put on the plan. She also
39 asked for five-days' notice before blasting.

40 Bill Gerrish said he has been instructed to give the abutters and the Police Department seven
41 days' notice before blasting. The exact location of the right-of-way of the private water main is
42 estimated but not fully known.

43 Abutter Deb Ashley owns several houses in Birch Hill, topographically below Pine Ledge.
44 There is a wetland between the two properties. She has a septic system in the flood zone. Has
45 there been a study of her property?

46 Bill Gerrish replied there is a significant stormwater detention basin facility going in that will
47 keep water off her property. Hydrology models of the system have been approved by peer
48 reviewers.

49 Abutter Susan DeQuattro of the Aland Realty Group lives on property to the south, but does not
50 see the motel property. How will runoff affect her property?

51 Bill Gerrish described how stormwater is collected from the site's impervious surfaces, filtered,
52 and flows into the retention basin. A level spreader and a riprap spillway slow any water that
53 might spill out of the retention basin. The system has been designed to handle 2-, 25-, and 100-
54 year storms and ensures that water does not leave the site in greater amounts than in pre-
55 development. Water flows off the site through an underground culvert to Route 1. There is less
56 than a 1% chance that water will get to the other side of Route 1.

57 Sewage will be pumped through a residential subdivision on the opposite side of Route 1 before
58 being treated by Ogunquit Sewer District.

59 Lighting will be focused and contained on the motel property.

60 Chair Kathleen Kluger closed the public hearing.

- 61 1. The first waiver is for §6.4.20, dismissing the use of NABD datum. NABD 1988 datum
62 is preferred. It is the current standard. It matches GIS data.
- 63 2. The second waiver is for §6.4.17.4, for the ground water testing requirement. The board
64 had no issue with waiving the requirement.
- 65 3. The third waiver is for the requirement for underground utilities. The board had no issue
66 with waiving the requirement, either.
- 67 • Motion: Al Cotton moved to waive §6.4.20, §6.4.17.4, and the underground utilities for
68 Employee Housing, Michael Ramsey, Pine Ledge Motel, 1963 U.S. Route 1, Map 1,
69 Lot 4. Peter Smith seconded the motion. The motion passed 5-0.
- 70 • Motion: Pete Smith moved to give final approval for the application given by Michael
71 Ramsey, Pine Ledge Motel, 1963 U.S. Route 1, Tax Map 1, Lot 4, with the condition
72 that a yearly affidavit will be provided to the Code Office stating that the property is
73 used for employee housing only. Al Cotton seconded the motion, which passed 5-0.

74

75 **Brookside Landing, 1400 US Route 1**
76 **Map/Lot: 0097-0020; Owner: 1400 Group, LLC**
77 **Application is a Site Plan Amendment to include a 1,400-sf storage garage with paved**
78 **driveway.**

79 Garry Woods, Shoreline Construction
80 Lee Allen, Colby Company

81 This application is carried over from the January 27 meeting. This is a plan to construct a
82 1,400 square foot garage on the property behind the parking lot for Building 2. The garage is to
83 hold vehicles and backordered building materials. The building has no residences. For utilities,
84 it only requires electricity, not water or sewer.

85 The previously approved single-family residence is not on the plan, but it will be put back on
86 when the plan is amended in the future.

87 The current stormwater calculation does not include the single-family residence, making the
88 plan incomplete. The density is correct. The lot has 23.9% coverage, where 50% is allowed.

89 The CEO has determined that, based on Route 1 square footage tables, this is a commercial
90 building rather than an accessory use.

91 The garage has three bays. There is room in the driveway for three more parking spots. They
92 are not shown because they are not required.

93 The applicant would like §5.3, the two-step approval process, waived. The development is not a
94 major subdivision.

95 • Motion: Peter Smith moved to accept the application for Brookside Landing, 1400 U.S.
96 Route 1, Map 97, Lot 20 as complete for review. Seconded by Al Cotton, the motion
97 passed 5-0.

98 • Motion: Peter Smith moved to open the public hearing for Brookside Landing, 1400
99 U.S. Route 1, Map 97, Lot 20. Seconded by Wayne Boardman, the motion passed 5-0.

100 No one came forward to speak. Chair Kathleen Kluger closed the public hearing.

101 The proposed uses are: one single-family residence, two commercial uses with residences above,
102 and garage use. The uses will match those found in the table of permitted uses for the district.

103 The structure is a cape-style design. The second floor is lofted. That is why the proposed two-
104 story garage with a footprint of 1,400 square feet results in total footage of 2,399 square feet,
105 rather than 2,800 square feet.

106 There is a waiver request for §6.3.13, Building and Site Design, exterior building materials.
107 Vinyl siding is planned instead of wood clapboard, wood shingles, stone, or brick. The siding
108 has a wood look. During the previous approval, a sample had been brought to the Board and
109 approved.

110 • Motion: Pete Smith moved to waive the requirements of §6.3.13 from the York
111 ordinances, building and site design requirement Subsection 4, Exterior Building
112 Materials, to allow the use of wood-look vinyl siding in lieu of wood clapboard, wood

113 shingles, stone, or brick. Seconded by Wayne Boardman, there was no discussion.
114 The motion passed 5-0.

115 • Motion: Wayne Boardman moved to continue the application for Brookside Landing,
116 1400 U.S. Route 1, Tax Map 97, Lot 20, to the date certain of March 24, for additional
117 information, materials, and plans. Seconded by Gerry Runte, there was no discussion.
118 The motion passed 5-0.
119

120 **Long Sands Village Elderly Housing Development, 122 Long Sands Road**
121 **Map/Lot 0044-0038, owned by James Paolini**
122 **Application is a subdivision development to create 10 units of elderly housing.**

123 Geoff Aleva, Civil Consultants
124 James Paolini, Long Sands Village Elderly Housing Development
125 Attorney Greg Orso

126 This application was continued from January 27, when there was a public hearing. Kathleen
127 Kluger asked if the applicant wished to pursue his request for the Chair to recuse herself from
128 these proceedings. The answer was no.

129 Chris Di Matteo went over his comments.

- 130 • The Board has discussed §18.15.b.1.d, the requirement to bring the plan back if it is
131 altered. It was unclear if that should be a condition of approval.
- 132 • The landscape architect has checked the nurseries. Trees eight to ten feet tall are not
133 available. The applicant has asked for approval of six to seven foot trees.
- 134 • Article 12 as not been addressed or revised. It may be moot.
- 135 • The term “mailing” should replace “property” in describing the address.
- 136 • The method of moving vehicles during snow removal operations did not make it into the
137 condo docs.
- 138 • It appears the short term residential rental provision has not gone into the condo docs.
- 139 • The Right of Survivorship and its implications are not in the condo docs. Greg Orso said
140 he will put in whatever language the Planning Board wishes to see. The Right to
141 Survivorship should be enforced by the Condo Association, not the Town. When an
142 owner dies, and an underage person inherits the condo, that person can own the condo as
143 long as the occupants continue to meet the age requirement.

144 Kathleen Kluger referred to Zoning Ordinance §18.15.b.1.d, which indicates that the owner of
145 the development shall return to the Planning Board for approval if there are any changes to the
146 approved plan that affect the area of the property, the density of the property, and/or the number
147 of dwelling units permitted on the property. Should this be a condition of approval? she asked.

148 Al Cotton said that the section does not belong on the plan. Wayne Boardman said it is not up to
149 the Planning Board. It is a zoning ordinance that already exists. Pete Smith said the situation

150 cannot be adjudicated until a situation actually comes up. Dylan Smith said that if it comes up,
151 the Court will decide how the requirement will be fulfilled.

152 Wayne Boardman asked what the remedy would be if the development becomes non-conforming
153 after construction. Kathleen said that the remedy might be removal of the offending part of the
154 property. Al Cotton said there might be a fine imposed.

155 Geoff Aleva said most of the new trees will be added along the eastern buffer. Wayne Boardman
156 said white pines are unacceptable. They lose their understory. He understood that there would be
157 spruce trees on the property, but no pines had been added to the plant list. Geoff said he would
158 update the legend.

159 The applicant will clarify the mailing address.

160 Chris Di Matteo said that all of his outstanding comments have been met. Snow removal has
161 been addressed in the declarations.

162 • Motion: Al Cotton moved to grant final plan approval for the application Long Sands
163 Village Elderly Housing Development, James Paolini, Tax Map 44, Lot 38. Pete Smith
164 seconded the motion.

165 In discussion, Gerry Runte said the Planning Board should not base its approval solely
166 on ordinance compliance. There are issues of equity and character, as well. The project
167 will result in an unjust imposition on the Fernald Ave neighborhood. We have a duty to
168 assure that growth and building in town is equitable for the citizens, he said.

169 Kathleen Kluger found that the application does not meet Site and Sub Reg. 7.6.1, for
170 the lot size, width, depth, shape, and orientation of the minimum building setback lines
171 appropriate to the location and type of development and use contemplated.

172 She said per Sub Site Regulation 7.6.2, lot configuration in areas shall be designed to
173 provide for adequate off-street parking and service facilities based upon the type of
174 development contemplated. It does not.

175 She found that per Site and Sub Reg 8.1.9, Snow Removal, the plan lacks suitable areas
176 for snow storage.

177 Kathleen called for a vote. The motion for final approval failed 2-3. Peter Smith and Al
178 Cotton voted yes. Gerry Runte, Wayne Boardman, and Kathleen Kluger voted no.

179

180 **Mount Agamenticus Parking & Bathroom Improvements, 17 & 21 Mt A Road**
181 **Map/Lot 0095-0008 & 0093-0025, owned by Town of York and York Water District.**
182 **Application is a Site Plan for new parking facilities and bathroom facilities at Mount**
183 **Agamenticus.**

184 Lacy Kremer, Project Engineer, Wright Pierce Environment Engineering
185 Robin Cogger, Director York Parks & Rec

186 This application was continued from January 27, 2022, when preliminary approval was granted.

187 Per CEO Amber Harrison, the expansion of the impervious area is grandfathered. The waiver
188 request for Article 10 has been withdrawn.

189 Letters of support have been received by the Police Department, the Fire Department, and the
190 Water District.

191 Lacy Kremer gave a PowerPoint presentation about the status of the project.

192 • Motion: Al Cotton moved to accept Mount Agamenticus Parking and Bathroom
193 Improvements, Map/Lot 0095-0008 & 0093-0025, as complete for final review.
194 Seconded by Wayne Boardman, there was no discussion. The motion passed 5-0.

195 • Motion: Al Cotton moved to open the public hearing for Agamenticus Parking and
196 Bathroom Improvements. Seconded by Pete Smith, there was no discussion.
197 The motion passed 5-0.

198 No one came forward to speak. Chair Kathleen Kluger closed the public hearing.

199 Flagging the site with markers is not necessary. The Planning Board will not be visiting the site.

200 The Board made corrections of the Findings of Fact, which will be reformatted to meet template
201 standards.

202 • Motion: Pete Smith moved to give final approval of the application for Mount
203 Agamenticus Parking and Restroom improvements, 17 and 21 Mt. A Road, York, Maine,
204 Map 405, Lot 29-02 and Map 403, Lot 23-02 as presented, with the following conditions:
205 ~ The construction will not begin until the DEP permit has been received.
206 ~ A third-party engineer will be available on the site from the beginning of
207 construction until the stormwater pond is complete.

208 Al Cotton seconded the motion. There was no discussion. The motion passed 5-0.

209

210 **Minutes**

211 • Motion: Al Cotton moved to accept the Minutes of February 10, 2022, as edited.
212 Seconded by Pete Smith, the motion passed 5-0.

213 **Other Business**

214 1. Rewriting Shoreland Zoning will be a two-year project the Board will undertake when
215 the Comp Plan, the Conservation Subdivision Ordinance, and the Charrette and plan for
216 Short Sands Road are complete.

217 2. Kenny Churchill led a discussion about rising streams.

218 3. Wayne Boardman intends to introduce an electric vehicle infrastructure ordinance in
219 time for the November vote. It is based on a well-researched model ordinance written
220 by SMPDC.
221

222 4. The Comp Plan Steering Committee is working at an accelerated pace. The Plan will be
223 presented to the Planning Board April 28, and Planning Board work will begin then.

224 **Adjourn**

225 9:40 P.M.

226 Respectfully submitted,

227 Patience G. Horton

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

York Planning Board Workshop
Thursday, February 17, 2022, 7:00 P.M.
Via Zoom

Call to Order; Roll Call; Determination of Quorum; Appointment of Alternates

Chair Kathleen Kluger called this special meeting of the Planning Board to order at 7:00 P.M. A quorum was determined with five people voting: Kathleen Kluger, Vice-chair Wayne Boardman, Peter Smith, Al Cotton, and Board Secretary Gerry Runte, who joined the meeting at 7:10 P.M. Alternate Ian Shaw was present, but did not vote. Alternate Kenny Churchill was not present. Planning Director Dylan Smith represented Town Hall Staff. Patience Horton was the recording secretary. Votes were tallied via roll call.

Public Forum

There was no public forum.

Public Hearing—Article 8—Shoreland Overlay District (Docks in the Resource Protection Subdistrict)

This meeting is a public hearing for a proposed amendment to a zoning ordinance. The request to amend the zoning ordinance originated with the Board of Selectmen. Per the Town of York Home Rule Charter Section 21, an ordinance may be introduced by any member of the Board of Selectmen at any regular or special meeting. State Law M.R.S Title 30-A, Section 4352, Zoning Ordinances, requires that there be a public hearing for any proposed new zoning or amendment to an existing zoning ordinance. The Selectboard requested that the Planning Board hold this hearing in addition to the one they will conduct on Monday, February 28, at 7:00 P.M.

- Motion: Al Cotton moved to open a public hearing to a proposed amendment for Article 8, Shoreland Overlay District, Docks in the Resource Protection Subdistrict. Seconded by Pete Smith, the motion passed 4-0.

Chair Kathleen Kluger opened the public hearing.

Charley Steedman has been out on the York River for more than 75 years. The York River is worth protecting fiercely. Any change in the status for docks on the York River has to be considered in a context of the new Comp Plan and the Climate Action Plan.

Karen Arsenault: The river is exceptional for its clean water, salt marsh habitat, resilience to climate impact, biodiversity, and rare and endangered plants and wildlife. The York River Wild & Scenic designation, Maine DEP, and the Nature Conservancy acclaim its healthy condition and prioritize its protection. The Town has made recommendations to sustain its use and resource protection. Those recommendations do not include docks. The Comprehensive Plan and the Climate Action Plan attest and adhere to the respect of the river's natural state to which the voters agree.

Jennifer Hunter: The Town and Harbor Board's existing ordinance does not allow docks in Resource Protection. Revisions to dock development should be consistent with Town goals, the protection and management plan, the Comp Plan, and the Climate Action Plan. The map provided with the amendment does not match the categories of coastal wetlands, coastal bluffs, inland wetlands, the 100-year flood plain, bird habitat areas, or unstable coastal bluffs. Overall,

41 the amendment is confusing and will create more problems. I hope the Planning Board concurs
42 and does not support placement of the amendment on the May ballot, she said.

43 Gail Gilcrest said the Statements of Fact state incorrectly that this amendment clarifies where
44 docks are permitted and prohibited. The abrupt wording in the amendment “in short, docks are
45 permitted in the water,” lends confusion to what already is a confusing situation. This proposed
46 amendment is not a simple clarification. It is an affront to the people of York who developed the
47 Climate Action Plan and the Comp Plan. I hope the Planning Board will consider not allowing it
48 to appear on the May ballot, she said.

49 Mike Sinclair, Harbor Board Chair, said this ordinance change is being rushed through.
50 Performance standards have to be developed before dock amendments can go further. He is
51 concerned about erosion of steep slopes and unstable bluffs. There must be vegetation and bank
52 stabilization before a dock is built. If steep slopes and unstable bluffs are not protected,
53 sedimentation will lead to forced dredging. It cost \$2,900,000 to dredge York Harbor three
54 years ago.

55 Ala Reid said this plan conflicts with other sections of the ordinance. It creates more problems
56 than it solves. It does not support the vision laid out in the Comp Plan. The language of it is too
57 broad and sweeping. If this passes, York will have to live with the unintended consequences of
58 this language for years to come. The Planning Board needs to take the lead. There has to be
59 balance for more recreational access and an equal desire to protect our rivers and other
60 significant natural resources. She asked the board to do what they can to keep this amendment
61 off the May ballot.

62 Torbert Macdonald said that the amendment is contrary to the Comp Plan, current law, State
63 rules, and climate action. If it passes, docks will be protruding into the salt marshes in the upper
64 river where right now someone can witness erosion of the salt marsh from Scotland Bridge. The
65 silt ends up in the harbor, which will have to be dredged again. The Selectboard is accelerating
66 a process that the citizen-taxpayers can’t afford.

67 Doreen Gillis said that the voters of York have said over and over again they are in favor of
68 strict zoning measures that protect the York River. They do not wish to lose the restrictions on
69 docks. This ordinance amendment should be withdrawn. This is not what we want for our
70 beautiful river. It is time for us all to be vigilant and not let this amendment go onto the ballot.

71 Gerry Runte read an email communication from Nan Graves. She will not support any dock
72 ordinances until the community adopts the new Comprehensive Plan.

73 Gerry read an email communication from Arthur & Eliza Peters, Peter & Kathleen James, and
74 Elizabeth Johnson. They support property owners’ rights to build under the existing requirements,
75 but it seems like the only intention of this amendment is to allow more docks and piers on the
76 river without considering the loss of scenic value and the impact on recreational users. They
77 believe ordinance changes should be consistent with the Comprehensive plan and the Climate
78 Action Plan, and these are not.

79 • Motion: Al Cotton moved to close the public hearing for the proposed amendment to the
80 Shoreland Overlay Resource Protection Zone. Seconded by Pete Smith, the motion
81 passed 5-0.

82 Chair Kathleen Kluger said State law requires the Planning Board to post and publish notice of
83 the public hearing. The Planning Board has fulfilled its requirement to do so.

84 Planning Director Dylan Smith encouraged the people who testified to go to the February 28
85 hearing when the Selectboard decides whether to send the amendment to the May 2022 special
86 general reference.

87 Al Cotton pointed out that the language in the Statement of Fact implies that the Planning Board
88 recommends putting the amendment on the ballot. Dylan Smith said that what appears to be a
89 preference vote is boiler plate language. It does not mean the Planning Board approves of the
90 amendment.

91 The Planning Board's preference vote will be in the Voter Information Guide.

92 • Motion: Gerry Runte moved that when Planning Board hearing is conducted and
93 submitted back to the Selectboard, the statement that that a preference vote was made by
94 the Planning Board should be disregarded.

95 The motion was not seconded.

96 • Motion: Pete Smith moved that the Planning Board required the amendment to the
97 Shoreland Overlay about docks not be forwarded to the voters on the May ballot.
98 Seconded by Al Cotton, the motion passed 5-0.

99 ***Other Business***

100 The Selectboard's public hearing on this amendment will be Monday, February 28, on Zoom.

101 ***Adjourn***

102 7:50

103 Respectfully submitted,

104 Patience Horton