

York, Maine
Planning Board Meeting Minutes
Thursday, April 22, 2021; 7:00 P.M.
Remote Meeting via Zoom

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, Al Cotton, and Pete Smith. Alternate Ian Shaw was present but did not vote. Kenny Churchill was absent. Planning Director Dylan Smith represented staff. Chris Di Matteo, principal of Longmeadow Planning and Landscape Architecture, served as compliance- and peer-reviewer. Patience Horton took Minutes and wrote this report. Votes were tallied via roll call. The meeting lasted three-and-a-half hours.

Field Changes

There were no field changes.

Public Forum

No one came forward to speak.

Application Reviews

Bristol Pointe #2, 294 York Street

Map/Lot 0050-0122 owned by Bristol Pointe LLC

The intent of this sketch plan application is to demolish the existing residence/office space and construct a new mixed-use building above a parking level.

Brud Weger, Brud Weger Architects

Chris Duplantis, Project Manager

David [Name?], Owner

Chris Di Matteo. The Bristol Point #1 mixed-use building was approved by the Planning Board last July. This is the next-door property that proposes twelve residential dwelling units with 3,000 square feet of commercial space on the ground floor.

Brud Weger: There will be 16 parking spaces where 15 are required. Four spaces are out back for which we are asking wetland mitigation. The lot coverage is less than 75%. The “vocabulary” fits in with the original building and buildings in the neighborhood. There will be a communal courtyard between the two buildings for an herb garden or maybe a barbeque area. We would not merge the lots, but there would be a simple sidewalk from Building 1 to Building 2. The elevation change from the street to the parking level is about 7 feet.

- Chris Di Matteo: The town ordinance does not allow fill for proposed parking. Underground parking accessibility will require grading.

- Dylan Smith: Per 11.4, conditions, wetland fill (up to 4,300 square feet of impact) is only for driveway access to an area, utilities, or roads.
- Brud Weger: But we are increasing the size of the wetland.
- Kathleen Kluger: Code Enforcement will tell you if that is acceptable.

Chris Di Matteo: It is not clear that the turning template for maneuverability or deliveries will work out. The sidewalk elevation shows a step up from the sidewalk that the Town might find out of place. Dylan Smith: Get in touch with Dean Lessard about the Village Improvement Design plan regarding that step.

Brud Weger: Deliveries would be from the street level with vehicles pulling up to the curb. The garbage truck would back in. We have not yet spoken to Fire and Safety about the layout. We will probably replace the step with a ramp.

- Motion: Al Cotton moved to open the public hearing for Bristol Pointe #2, Map/Lot 0050-0122. Peter Smith seconded. The motion passed 5-0.

Kathleen Kluger read a March 28, 2021, letter from Jean Scott into the record. She is the abutter at 290-292 York Street and went through the removal of the building at 298 York Street. It was very disruptive, she wrote. Blasting and pounding might have an effect on my building, which has a mixed foundation and drainage issues.

- When will be project begin?
- Is there going to be blasting/pounding?
- Will photos be taken in and around my building?

Brud Weger: We did not blast on the first building. We did hammer. It is less forceful than blasting. We hope to begin in the fall or possibly the following spring.

- Motion: Al Cotton moved to close the public hearing for Bristol Point #2, Map/Lot 0050-0122. Peter Smith seconded. The motion passed 5-0.
- When asked, Brud Weger said the market would not bear workforce housing, but there are some relatively small (800 square foot), affordable (condominium) units. Electric vehicle charging stations are under consideration.
- Dylan would like to see bike racks and street trees.
- Kathleen Kluger: Are these designed for Short Term Residential Rentals? The Planning Board can put on conditions that would put limitations on or possibly prevent STRRs.
- Pete Smith suggested putting solar panels on the south side roof. Brud Weger said it was feasible.

**York Beach Surf Club, 780 York Street
Map/Lot 0038-0059 owned by York Beach Surf Club LLC**

The intent of this project is to revise an approved plan by relocating parking and conducting building and site refurbishments.

Tim DeCoteau, Project Manager

Brian Nielsen, Attar Engineering

Taylor Perkins, York Beach Surf Club

Chris Di Matteo: This application was continued from April 8, 2021. The Town Attorney has agreed that Right Title and Interest has been settled.

Condition 1, Part 1

Kathleen Kluger: A plan is required that reflects the Board's required parking spaces.

- Tim DeCoteau: Eight two-bedroom units have been removed.
- Brian Nelson: We have 65 bedrooms that calculate to 82 required parking spaces. We have 72.
- Wayne Boardman: The Planning Board has the ability to waive the required number.

Condition 1, Part 2

Kathleen Kluger: The Gorrill Palmer peer review requires a revised landscape plan showing fast-maturing vegetation in the buffer zone.

- Taylor Perkins: I have met with every abutter. One does not want white oaks on his property line.

Condition 1, Part 3

Kathleen Kluger: Per Gorrill Palmer, DEP requirements for ground coverage have to be calculated.

- Brian Nielsen: Gorrill Palmer has asked for the calculated ground coverage figures, which we will include in our letter addressing all of their review notes. We are disturbing more than one acre, but we have less than one acre of new impervious. Permitting wise, that requires a DEP Permit-by-Rule. That paperwork and application are underway, and a copy will be sent to DEP and the Town.
- Chris Di Matteo: The applicant wants to build the parking stalls with pavers that allow grass to grow through them. The applicant is considering those 100% pervious and not part of the coverage calculations.
- Pete Smith: They are now considered 100% impervious.
- Brian Nielsen: We are counting them as 100% pervious because they are vegetative.
- Tim DeCoteau: The number for different surfaces is arbitrary. This should be decided by looking at the ordinance. It has the authority.
- Kathleen Kluger: This has to be checked with the Code Office.

Kathleen Kluger: Usually, when an applicant comes to us with so many conditions of approval, the Planning Board says "no way." The review tonight is part of your COVID-prompted application. Ordinarily, we would not be talking at this length and level in such a short amount of time for any other application. We are trying to get your business up and running for your summer

season. Your future phase will not be treated with the same COVID mitigation we are looking at now.

Condition 2

Kathleen Kluger: All outstanding review fees shall be paid to the Town.

Condition 3

Kathleen Kluger: Per 15.a.3, traffic information will be provided to DPW. The Planning Board has discussed this before, but has not come to any conclusion.

- Tim DeCoteau: This does not apply. The applicability section says this traffic information does not apply to the establishment, expansion, or change of any non-residential use. The use as a motel stays the same.
- Kathleen Kluger polled the board members to see if the issue of a DPW traffic study does or does not apply. The Board agreed 5-0 that it does not apply.

Condition 4

Kathleen Kluger: Gorrill Palmer recommends that Code Enforcement review the proposed expansion of non-conforming structures in the rear and side setbacks. This has to do with the decks on the backs of the cottages.

- Tim DeCoteau: Per 17.1.6, the Planning Board can allow expansion into the setback whether it is either a non-conforming use or a non-conforming structure.
- Chris Di Matteo and Dylan Smith took the position that the decks are non-conforming structures. In BUS-2, such expansion into the setback is not allowed.
- Tim DeCoteau: It is allowed because it is also a non-conforming use.
- Kathleen Kluger: A decision by Code has to be put in as a condition.

Condition 5

Kathleen Kluger: A revised Existing Conditions plan that identifies and certifies the current impervious area on both properties will be submitted to the Code Office for review and approval. It will contain a revised calculation plan that clearly identifies and enumerates the proposed impervious area for both properties. The information will be organized by the base overlay zones for both properties, and it will provide totals and calculations that support the information on Plan Note 5 of the Amended Site plan.

- Chris Di Matteo: This is a presentation of the math demonstrating the impervious coverage.
- Brian Nielsen shared a screen showing how he has displayed those numbers on the plan.
- Chris Di Matteo: We also need existing conditions.

Condition 6

Kathleen Kluger: A performance guarantee per Article 10 will be established in an amount to address proposed stormwater improvements and erosion control measures.

- Tim DeCoteau: The amount we came up with at 125% is \$27,000. The property owner said he will provide a bond or an irrevocable letter of credit for \$30,000.

- Dylan Smith: We want to make sure Gorrill Palmer agrees with it. I prefer an irrevocable letter of credit.

Condition 7 [See Condition 1, Part 3]

Kathleen Kluger: Submit a Maine DEP Stormwater permit prior to construction of the proposed stormwater system.

- Tim DeCoteau: This is what happens when you disturb more than an acre. You have to go to DEP for a stormwater permit.

Waiver Requests

Tim DeCoteau said there are two waiver requests.

- 1) Section 6.3.3.2 is for the high intensity soil survey for the back lot. The Planning Board waived one for the front lot in 2019.
 - 2) Section 6.3.3.3 is for a particular traffic study that is different than the one requested by DPW. Our situation reflects fewer units resulting in less traffic, and the study is not needed.
- Motion: Al Cotton moved to grant both waivers (6.3.3.2 and 6.3.3.3) for the York Beach Surf Club Renovation, 780 York Street, Map/Lot 0124-0295; and 12 Carlton Street, Map/Lot 0124-0323. Peter Smith seconded. The motion passed 5-0.

Approval

- Motion: Al Cotton moved for preliminary and final approval for York Beach Surf Club Renovation, 780 York Street, Map/Lot 0124-0299; and 12 Carlton Street, Map/Lot 0124-0323, with seven conditions of approval as stated in the meeting.
- 1) Prior to signing the Findings of Fact, the calculation of required parking will be added to the amended site plan under Plan Note 3.
 - 2) Prior to signing the Findings of Fact, the applicant will address all the comments from Gorrill Palmer, Town peer review engineer.
 - 3) Prior to signing of final plans by the Board, all outstanding review fees shall be paid to the Town.
 - 4) Prior to signing the final plans, the COE will review and approve the proposed expansions to the non-conforming structures located at the rear and side setbacks pursuant to Article 17.
 - 5) Prior to signing the final plans, a revised Existing Conditions plan that identifies and certifies the current impervious area on both properties will be submitted to the Code Office for review and approval. It will contain a revised calculation plan that clearly identifies and enumerates the proposed impervious areas for both properties. The information will be organized by base overlay zones for both properties, and it will provide totals and calculations that support the information on Plan Note 5 of the amended site plan.

- 6) Prior to the issuance of building permit, a performance guarantee in the form of an irrevocable letter of credit in an amount to be determined by Gorrill Palmer will be provided to the Town. It will address proposed stormwater improvements and erosion control measures, per Article 10 of the Site Plan and Subdivision Regulations.
- 7) Prior to construction of the proposed stormwater system on the site, a Maine DEP stormwater permit will be submitted.

Wayne Boardman seconded. The motion passed 5-0.

Dunne's Ice Cream, 214 Nubble Road

Map/Lot 0025-0200-A owned by Hattrick LLC

The intent of this project is to review an approved plan by including a restaurant use/food truck on site during breakfast hours, prior to opening of the ice cream stand.

Geoff Aleva, Civic Consultants

Stephen Dunne, Dunne's Ice Cream

Geoff Aleva: We hope to add a breakfast food truck as a seasonal use. It will be located near the ice cream parlor when it is open and then moved to a remote parking space or off the property when it is closed. We have 31 spaces on the property. The restaurant requires 27 spaces. There are no other site changes. The site plan has been updated to indicate tables and chairs. We have added a pathway that connects the area in front of the ice cream parlor to the sidewalk that is along Nubble Road.

- Motion: Al Cotton moved to accept the application for Dunne's Ice Cream, Map/Lot 0025-0200 for preliminary review. Peter Smith seconded. The motion passed 5-0.

Pete Smith: The Fire Chief has required that the propane tanks must be a minimum of 10 feet from the parking area so they cannot be struck by a vehicle. They need to be secured to the ground. Do they need to be disconnected from the truck every time the truck moves? Geoff Aleva: This is a food truck that was manufactured to be a food truck. It has its own internal propane tanks.

Pete Smith: Does the self-contained propane need to meet FDEA code? Geoff Aleva: There are codes for vehicular food trucks. When the truck was purchased from a manufacturer, it already followed FDEA guidelines.

Pete Smith asked the Board: Does there need to be a letter from Fire Chief Welch about the tanks? "I don't think so," said Al Cotton. The others agreed 5-0.

Geoff said he and Dean Lessard are trying to communicate about problems with the benches, but have not been able to meet up. Two of the benches are near the ADA handicap parking.

- Dylan Smith: The benches are revisions to an approved plan and should have come to the Planning Board for approval.
- Stephen Dunne: One is in position to deter people from parking in the rampway.

- Kathleen Kluger: I could not maneuver a wheelchair I was pushing from the parking area to the window. The poor parking lot striping made it hard to access passage from the van. The passage area by the benches was so narrow, I could not keep from going on the grass. There was no way to accommodate the wheelchair in line when it was our turn.
- Motion: Al Cotton moved to open the public hearing for Dunne's Ice Cream, Map/Lot 0025-0059. Peter Smith seconded. The motion passed 5-0.

Kathleen Kluger read a letter of support from Joe Lipton into the record. He is the owner of the Viewpoint Hotel.

No one else came forward to speak. Kathleen closed the public hearing. The board members discussed and made many suggestions about how to treat the benches.

- Motion: Al Cotton moved to approve the amended site plan review for Dunne's Ice Cream, Map/Lot 0149-0473, with the following conditions.

Prior to signing the Mylars:

- 1) Submit a draft Findings of Fact to the Planning office.
- 2) Revise the amended site plan in response to the comments relating to the benches.
- 3) Pay all outstanding fees to the Town.
- 4) Have the Code Enforcement Office confirm the number of seats provided on the site, making sure that they conform to Article 4 of the zoning ordinance.
- 5) Make the hours of operation for the food truck from 7:00 A.M. to 12:00 P.M and for the ice cream stand 12:00 P.M. to 10:00 P.M. The times will not overlap.
- 6) The impervious surface area calculations will be added to the plan.
- 7) Striping of the handicap parking pad will be refreshed.
- 8) Obstacles from the handicap accessway be removed.

Seconded by Pete Smith, the motion passed 5-0.

York Sewer District, 21 Bay Haven Road

Ap/Lot 0020-0052 owned by York Sewer District

The intent of this project is to amend an approved plan by reconstructing an existing administration building (Phase 1) and construction of a new two-bay garage (Phase 2)

Michael Guethle, Architect and Engineer, Wright-Pierce

Michael Stein, Wright-Pierce Project Manager

Tim Haskell, Superintendent of the York Sewer District

Phil Tucker, Assistant Superintendent

Michael Guethle: Phase 1 will begin this summer/fall. Phase 2 is anticipated for summer and fall of 2023. The administration building is slightly under 5,000 square feet and includes space for in-

person meetings. Occupancy will total 75 people. The structural elements of the building are strategically placed to avoid the 36-inch outfall where treated wastewater exits the facility.

There are no direct wetland impacts. We are meeting International Building Code and energy-conservation code. Flood protection requirements have placed the floor two feet above the 100-year floodplain and are adequate for the life of the building. In similar projects in Southern Maine, we have recommended between 12- and 14-foot elevation, or one foot above the 100-year floodplain. I am happy to present a plan that includes a finished floor elevation of 17.

The location of the building on the lot is driven by project setbacks, setbacks from abutting properties, wetlands, parking and screening, and coordination with utilities. We are retaining the 20 feet of existing vegetation between the proposed administration building and the property line and are adding rhododendrons in certain areas. There are no changes to the existing tree line screening for the garage. We are proposing 15 parking spaces including an ADA space with a van-access aisle. Wright-Pierce has submitted applications to the MHPC and the YHDC.

Landscaping suggestions are welcome.

There are waiver requests.

Gorrill Palmer has accepted the floodplain elevation datum and has provided a comment about impact on the onsite culvert directly to Bay Haven Road. There are additional comments we will be responding to. Exterior lights are limited to the proposed building. There will be no pole lights. A photometric plan can be developed for this location.

- Motion: Al Cotton moved to accept the application for York Sewer District, Map/Lot 0020-0052 as complete for purposes of review. Seconded by Wayne Boardman, the motion passed 5-0.
- Motion: Al Cotton moved to open the public hearing for York Sewer District, Map/Lot 0020-0052. Seconded by Wayne Boardman, the motion passed 5-0.

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

Wayne Boardman said a photometric plan would be appreciated but, with so few lights, it might not be necessary. He recommended motion-detection lights rather than lights that are on all night.

Kathleen Kluger asked the board members if a site visit is necessary. Al Cotton expressed interest, and Ian Shaw said it wouldn't hurt. Everyone else was neutral, and Al and Ian were overruled.

Tim Haskell: I will be retiring in December, and Phil Tucker, who has been training for three years, will be the new superintendent.

- Motion: Al Cotton moved to continue this application to the schedule meeting of May 13, 2021. Pete Smith seconded. The motion passed 5-0.

Minutes

- Motion: Al Cotton moved to approve the Minutes of Thursday, April 8, 2021, with the corrections offered by Peter Smith. Gerry Runte seconded the motion, which passed 5-0.

Other Business

- 1) Dylan used a Conditional Approval worksheet when he worked for planning boards in New Hampshire. Kathleen said she would like to have one developed.
- 2) Tomorrow, Dylan will go over a draft for the open space conservation subdivision ordinance with Gerry and Wayne.
- 3) Dylan has worked with Al and Pete on the dimensional requirements for the Green Enterprise Overlay/York Beach Corridor. Getting it to the November vote will be a stretch.
- 4) Kathleen asked every member of the Board to facilitate focus group projects for the Comp Plan.
- 5) On May 10, Dylan will go before the Selectboard to discuss the need for additional planning staff. He prepared a report looking at what towns in the region and the state have for planning staff compared to what we have.

Adjourn

The meeting adjourned at 10:30.

Respectfully submitted,
Patience G. Horton
Recording Secretary