

York Planning Meeting (Zoom)  
March 24, 2021  
York Town Hall

Present: Joe McIlroy, Alan Brightman, Chris Wall, David Dermody, Zack Kobylanski

Others: Donna Falkner, Kirk Richenberg, Carl Peter, Dustin Geiger, Tom Curtin, Jim Campbell, Dave & Heather Nagel, Blaine VanRy

Zoom: Lance Brabant, Grace McLaughlin (Gigi's ipad), Melissa Estruch Zambito, Christine Johnson, Patti Ryan, Toni Sue Radesi, Lynn Copeland (mammo), Kathy Cunningham, John Cunningham, Sheldon Witmore, Marta Burroughs, Sherri Krohn, Thomas Pacheco, Josh Ryan, Ned Edmunds, Galaxy S10

7:30 pm – Mr. McIlroy opened the meeting and led the pledge.

Privileges of the floor – Davies Nagel

3/24/21 To the York Planning Board - Privileges of the Floor -  
Dave Nagel

I'd like to identify certain safety concerns mentioned at the last meeting that were left out of the minutes on 2/24/21. After all, this whole issue revolves around the safety of the school personal and anybody that travels through the Greigsville intersection.

I'm not sure of the exact wording of these but as everything should have been recorded it would be easy to check.

The first is David Dermody's comment that he would not have made tonight's meeting if he hadn't checked the (63/36) intersection before going forward on a green light due to a truck running the red light just the night before.

Also, in that same discussion, David said more kids will cross the road with a new facility there and Tim Boyle commented that people will not cross at crosswalks, to which David added, this creates a new concern.

With the main issue being safety, I believe these and any safety concerns or issues should definitely be included in the minutes.

In one more safety concern regarding the minutes, I'd like to respond to Tim's comment in the minutes in which he said, "improvements (safety) should be the town, county and state's responsibility."

According to four different sections of our town's zoning code, this is absolutely not the responsibility of the Town of York's taxpayers or of any other taxpayers.

It's the builder's responsibility to make sure the development is safe, not the Town's.

Mr. McIlroy – we do not even have a complete application or review of the Travel Center. Their next step would be a preliminary sketch plan which we have not seen. We don't have anything in front of us at this time to comment on.

Mr. Campbell – the Planning Board for the preliminary site plan review process and once it comes in, the first step is determining whether or not the application is complete. Usually that a function on the bigger projects and the combination of the board, the consulting engineer, sometimes I'm involved a little bit with that. But until we determine that application complete, we don't really move forward and that's important with a completed application because once that determination is made it starts the clock rolling and that clock determines how we have to do certain things. If we don't follow a procedural clock, it can result in default approval to the developer which we don't want to happen ever. So, we're always really careful about making sure not to accept things and start to really review incomplete applications. Once it is deemed to be complete, which also involves some review to make sure the intended use is compliant with the code for the zoning district in which it is located. If it's not, there's another path that might allow variants, or some other kind of change in zoning that will need to take place before the process, but if it is relatively confined to code in terms of views, then it goes to the county as a referral under the general municipal law, 239m. It says that all site plans, all applications for special use permits have to go before the county and they have a chance to review the project and give input. That's a prerequisite from the jurisdictional standpoint, which means you can't do anything without making that referral. So, we usually do that early on after the application has been deemed complete. We also, if it's going to involve a coordinated SEQR review, will send out notices for that generally indicating the intent of the Planning Board to be the lead agency for that SEQR review. It allows other agencies that are interested or involved, to determine whether or not they want to seek that agency status, which is fairly unusual. But every once in awhile D.O.T. will step in or DEC will step in and say this is so heavily in our arena, we feel that we need to govern the security process. You tend to see that more with things that they absolutely control like mining and excavation, ones that are clearly stated in the environmental conservation law. But after that, SEQR notice goes out and we begin the preliminary site plan review process. Also, if there's a special use permit that is required, we do that. There are different processes, and your code has various sections that address the application methods, and the process will review those things. Both site plan and special use permit typically on a commercial transaction will require a public hearing. So, we publish notice of the public hearing, get comments from the public. It might be a one time shot and it might be a fairly drawn-out process for public comment on the complexity of the project and how people feel in the community to try to make certain everyone gets heard. Sometimes it's not just done in an hour, can deal with a lot of written comments and feedback from other interested agencies. Likewise, the feedback from the county in their review and public hearing feedback – the board needs to take into account as part of their deliberation process in reviewing the final site plan request. The preliminary site plan is intended to try to get it reasonably close to what it's going to look like. So, when the public sees it for the public hearing and when it's reviewed by other agencies, everything's good as to what's before you. So, the final site plan review process is a little anticlimactic, because by the time you get to that you're supposed to really have made a great deal of effort in helping the applicant address the concerns that you might have, refine the plan to maximize good qualities you want to draw out and complete SEQR process, as necessary. And ultimately, you'll be tasked with determining whether or not to grant final site plan approval. Joe had asked me to give you a rundown to remind you how the process works. Any questions?

Mr. Wall – It is my understanding that the minutes from our meetings are high level minutes, they're not transcripts, right?

Mr. Campbell – Yes that is typically the case and no that's not necessarily the case now. Minutes typically are an interpretation of the person that's taking them. The law requires only certain limited things to be in the minutes and those things are actions, motions, resolutions, brief summation of large discussions is absolutely permissible under the law. The reason for that is because it is difficult for lots of communities that don't have a lot of technology or the money to pay for expensive verbatim transcription. Its difficult for communities to accurately reflect every detail of the conversation. Because of COVID, we are able to do meetings, either remotely or a combination of in person and remote which was never allowed before. As a result of the executive order, the governor said, because this is being allowed, there's a requirement that the meeting be recorded in a verbatim word for word transcript, be prepared after each meeting, that's held remotely, the purpose of which is to allow people who might not have been able to appear remotely because they don't have technology to be able to go to the town and say, I want to get as close as I can to actually being there. When you talk about privileges of the floor, the law does not require any board to allow anyone to speak, except in limited circumstances or specific intention, namely public hearings. It is customary and common for boards to allow privileges on the floor at times when appropriate, but they have the right to indicate the limitations. If someone wants privileges, they are required to let the board know in advance in what they want to talk about, specifically for the problems of time.

Mr. Wall – So the recording will be the meeting minutes?

Mr. Campbell – It's not the meeting minutes. Meeting minutes are separate identifiable documents, the transcript is the recording from which transcript comes which can be used in terms of identifying discussions that took place.

Mr. Wall – So if we take the zoom recording off the table do, we now take Davies' comments and make them part of the minutes from last month? Is that a normal practice that we amend the meeting minutes.

Mr. Campbell – I suggest you take the written comments offered by Mr. Nagel and have the minutes of this meeting reflect that he asked those to be clarifications of the prior meeting.

Mr. Brightman - is the audio file sufficient or do we have a written version.

Mr. Campbell – You do have to have it transcribed into writing unless or until they change the executive order.

Mr. Geiger – They're transcribing because too costly to maintain audio recordings and recordings can disappear.

Mr. Campbell – a lot of different packages with zoom and one will transcribe for you. Donna, we have that correct.

Ms. Falkner – yes when it works -it didn't record well last week due to internet issues.

Mr. Campbell – yes, it’s not always perfect and phrases and words not always appropriate. Any other questions?

Mr. McIlroy – Does anyone have any corrections for the February 24 minutes?

Mr. Wall – only question I had was Zack was listed as an alternate which he was at the beginning of the meeting but wasn’t at the end.

Mr. McIlroy – we asked for a motion to activate Zack to be set into the position. Now he has been appointed by the Town Board. I have some small corrections which don’t really change the content and I will send them to Donna. So, can I have a motion to approve the February 24 minutes with corrections?

**Resolution:**

Mr. Brightman moved to accept the February 24, 2021 minutes with corrections, Mr. Kobylanski seconded,

Carried:

Aye - 5      Nay – 0

Mr. McIlroy – So now we will move on to the Habitat for Humanity subdivision

Ms. Falkner – asked for clarification of 3 names on Zoom – Galaxy S10, Ned Edmunds and Joshua Ryan

Mr. McIlroy – we’ll move on with the major subdivision for Habitat for Humanity. A year ago, we did a one to two split. Now you’ve seen the plans, they want 4 more lots, and 5 lots constitute a major subdivision.

Mr. Curtin – board member of Habitat. Met with Mr. Peter several times regarding further subdividing the property on Piffard Circle. We’re here for preliminary site plan approval, drawings by Marathon Engineering were distributed to the planning board. The balance of the parcel being subdivided into four lots, three of which are on Piffard Circle ranging in size from .35 acres to .6 acres, consistent with the original lot that was approved. Doesn’t require a whole lot of site work, get money donated and volunteers. Each lot conforms with the setback and minimum lot size. We’re open to comments and any tweaking. The one lot on Rt. 63, approximately 2 acres, in the northwest corner resulting from the grade there, lot D. Our plan is to do one house a year. It’s a very thorough process to get a family qualified, income and credit guidelines, they have to perform their share of the work. Built the present house in seven months with volunteers working 3 days a week. Typical house is 1100 sq. ft., single story, 3 bedrooms. Will sell it for less than market value because of all the volunteer labor. Know we have to do SEQR.

Mr. Wall – Is someone living in the present house?

Mr. Curtin – yes Amanda and two children currently renting from us because have to work out couple of things on the deed. Drawings show an asphalt drive which we don’t normally do so don’t know if you want us to take that out if we don’t do it.

Mr. McIlroy – Carl, do you see any reason why we don’t have a complete application now with the SEQR?

Mr. Peter – No since we have the SEQR and it's not near ag property so don't need an Agricultural Data statement

Mr. McIlroy – So is there any reason you see that we couldn't send it to county for referral.

Mr. Peter – think we're complete.

Mr. Campbell agreed and could have it back for next month.

Mr. McIlroy – so we could schedule a public hearing for next meeting. Anybody have any questions, concerns for the board? How about a motion to send it to the county?

**Resolution:**

Mr. Kobylanski moved to send Habitat to the county, Mr. Dermody seconded it, carried.

Aye – 5      Nay - 0

Mr. McIlroy – Need a motion for a public hearing on April 28 at 7:15 pm

**Resolution:**

Mr. Kobylanski moved to have a public hearing on April 28, at 7:15 pm. Mr. Wall seconded, carried.

Aye – 5      Nay - 0

Mr. McIlroy – the next thing we have is Heather Ferrara sent us a letter about the SEQR forms and if we had any changes to the present forms. No one. So, I think I can email her and tell her we're good with the forms. Any other questions? So next we have received a foil request.

Mr. Campbell – the town has received a foil request, freedom of information request, looking for records relating to the travel center. That request has been initially responded to by the town clerk. When a foil request comes in, the first thing they have to do is within five days of receipt, they have to acknowledge receipt and indicate either that records will be provided by a certain time, or if it's not a legitimate request under the Freedom of Information Law to deny the request. Chrissy has indicated that the records being sought relating to the travel center will be provided within 10 business days, I believe, as of yesterday. So, if you have information constituting a record, like emails or individual records or letters you need to send these to Chrissy. Send anything because we want to be totally inclusive and transparent. The law firm that made the request will sort out duplicates.

Mr. Dermody – so we have to send our copies of the same emails?

Mr. Campbell – yes and they specifically requested records in electronic format. It's a lot easier for Chrissy who's the official records clerk.

Mr. Wall - does this go back to when I first started on the board there was truck stop request and then it went away.

Mr. Campbell – It does not, this application only. Back to November 2020

Mr. McIlroy – I think November 12 or 13 we got the application package.

Mr. Campbell – I try to get things to Chrissy this week only about the travel center, nothing else. If unapproved send the unapproved minutes

Mr. McIlroy – I've been asked about why we're putting the unapproved minutes up.

Mr. Campbell – to try and comply with the spirit of the Freedom of Information Law. Important to know whether or not they are approved.

Mr. Richenberg – it is required by Open Meetings law that the minutes be out there within two weeks of the meeting.

Mr. Brightman – do we need to label the emails.

Mr. Campbell - not just tell Chrissy how many emails you are sending her regarding the travel center. Anything you receive in terms of email, even on personal computer or personal phone, all those things - constitute records and are subject to foil.

Mr. Dermody – think that needs to be clarified when anyone new comes on the board because from what I understand from the Freedom of Information act is you can go back for five years.

Mr. McIlroy - So we need laptops.

Mr. Campbell - And there, we have to figure something out, because one of the things that we can do is make sure that emails, and I'm not talking about privilege, confidential email, right. Like, if one of you emails me, asking for a legal interpretation or legal advice, that's confidential, not subject to freedom of information. But for everything that is subject to Freedom of Information law, we should make sure that there is kind of an official column, whether that is copying in Donna, the clerk of the planning board, whether it's copying in the town clerk in setting up a receptacle, so to speak for emails involving the planning board, I think probably data has gets a fair amount of emails, the fact that you're you may have emails that have been deleted, probably they are the same as someone else got. But everyone should send what they have. Donna should call Chrissy to coordinate emails.

Mr. Kobylanski – would it be prudent moving forward that each of us has designated planning board addresses set up by the town.

Mr. Campbell - I do think it would be a good idea, it would be a best practice.

Mr. Dermody – I agree with Zack.

Mr. McIlroy – I think Carl has been looking into that.

Mr. Peter – I have with town's point of view whether they would give one just to the chairman or all of you. In discussion right now.

Mr. Campbell – Just keep in mind the Freedom of Information allows access to personal email, so if a concern you'd want a separate email for all your correspondence. Helpful for the town to ultimately set up accounts because they are responsible for managing that from a legal standpoint.

Mr. Peter – I'm working on upgrading emails. If you feel you want your own, you need to let town know.

Mr. Campbell – Carl and I will let town know that we want town emails.

Mr. Wall – if you set up town emails for everyone, you might set up some kind of repository so all the documentation could be shared. Lot of work and will cost a lot of money.

Mr. McIlroy – Its what needs to be done, I think. Everything's electronic.

Mr. Brabant – I have information I can forward over to Chrissy.

Mr. Van Ry – If someone could update the members on the website. As of this morning Mr. Nagel was still listed.

Mr. McIlroy – We're getting to the point where we need an IT person. We need a lot of updates.

Mr. Campbell – Just make the request to the town board.

Mr. McIlroy – asked Donna if she heard the comment.

Ms. Falkner – heard it and is done.

Mr. McIlroy – can we have a motion to adjourn.

**Resolution**

Mr. Dermody made the motion to adjourn, Mr. Brightman seconded, carried.

Aye -5      Nay - 0

Respectfully submitted,  
Donna K Falkner  
Clerk