

Town of North Yarmouth
Planning Board
Meeting Minutes of July 12, 2022
Business Meeting

(recording is available via [Town Hall Streams](#))

I. Call to Order

The meeting was called to order at 7:20 PM. Present: Chris Cabot (Secretary), Kimry Corrette (Board Member), Jeffrey Brown (Board Member), Paul Metevier (Board Member), and Ben Smith, Town Planner

Absent with notice: Sanford Peabody (Board Member)

II. Officer Nominations

Chris Cabot coordinated the voting of the new officers for the 2022-2023 fiscal year.

Jeff Brown nominated Chris Cabot as Chairperson; Paul Metevier seconded the motion. Discussion. Vote 3 Yes / 0 No

Chris Cabot nominated Jeff Brown as Secretary; Kimry Corrette seconded the motion. Discussion. Vote 3 Yes / 0 No

III. Minutes Approval

Tabled

IV. Old Business

a. Deacon Hayes Commons

Steve Roberge, SJR Engineering, reviewed the overview of the project. He discussed the updated plan and what they are proposing for the each of the buildings to have their own separate lot to meet the setback requirements and there will be an additional lot for the common area. Items that have been changed since the last meeting:

- Added the property lines to each of lot 1-4 (including the common area)
- Added a subdivision plan suitable for the Planning Board signature and recording in the registry
- Added building unit numbers to each of the buildings
- Units 8 & 11 are designated to be affordable housing
- Updated water service lines going into each of the buildings
- Add a 12" water main to the plan along Walnut Hill Rd and Parsonage Rd which is an existing line
- Updated section in the homeowner's association agreement regarding septic tank testing
- Letter from the Fire Chief with positive comments
- Letter from the Yarmouth Water District with positive comments

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- The existing Walnut Hill and Parsonage Rd; road widths have been added to the plan
- Drainage arrows have been added to the plan
- Extended the proposed sidewalks to the property corner along the full length of the property along Walnut Hill Rd
- Snow storage area have been added to the plan
- Relocated and added additional parking lot trees to help buffer views of the abutting properties
- Added propane tank for each building to the plan
- Added additional material pertaining to maintenance items
- With regards to the municipality with an estimated net increase in taxable assessed valuation
- A performance guarantee estimates
- Additional language to the homeowner's association
- Letter from the Code Enforcement Officer stating project was in compliance of the dimensional and performance standards

Steve expressed his concern that what the applicant is being tasked with is what is written in the Land Use Ordinance. Many of the comments from the last meeting were more emotion verses factual. He asked for a vote on completeness on the preliminary and final applications.

Ben Smith confirmed that procedurally it is appropriate for the Board to vote on completeness. If this is approved, it is appropriate for the board to vote on preliminary approval. Ben notes there was a letter presented to the Town office earlier today with 30 signatures of individuals with is part of the project record.

Additional Public Comments Opens

Judy Potter, Walnut Hill Rd – Inquired about holding another public hearing due to the updated plans. The Planning Board Members and Ben Smith indicated that the scope of the project has not changed to warrant an additional public hearing.

Rich Parenteau, Pine Ridge Rd – He sighted Section 4.4.B.6 of the Land Use Ordinance regarding public hearings and also noted that supplemental information must be provided to the CEO at least 2 weeks prior to the meeting. He indicated that there had been late submittal at every meeting that should not have been considered. He also noted that Section 5.8.C regarding a letter from the superintendent of school district has not been received and because of that he is asking the Board not to give final approval tonight.

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Linc Merrill, North Rd – He indicated that he is concerned about the process not being followed. He noted things that the representative mentioned earlier in the project description that are not found in the packet. He mentioned the Homeowner’s association document isn’t complete in one final version, there are multiple versions. He discussed the project and what he felt was missing from the packet so he felt the Planning Board wouldn’t be able to vote on project completeness.

Paul Whitmarsh, Wild Turkey Ln – He stated that the Land Use Ordinance doesn’t speak very well to a project this magnitude. He questioned the affordable housing value amount. Who determines that price and how is it going to be followed. He also inquired about Section 9.2.C Ground Water Overlay and the CEO is supposed to know that number of units that are over the ground water overlay, he inquired if that number was known.

Paul Napolitano, Mill Ridge Rd – he inquired about the snow storage area in regarding snow dumps.

Sol Dostilio, Parsonage Rd – Asked for a second public hearing and discussed his feelings about the project being a direct abutter and regarding Parking lot size, Deacon Hayes well.

Ryan Thompson, Walnut Hill Rd – He expressed his concern about abutter notices on the project. He questions parcel sizes, questions about the parking lot and how will the affordable housing to be followed throughout the mandatory 25 years.

Rich Fortin, Long Hill Rd – He expressed his concerns regarding location of the buildings and the traffic noise concerns. Buildings are close together and he doesn’t feel the setbacks are being met. He inquired whether the applicant has provided a stormwater analysis, nitrate analysis,

Alicia Dostilio, Parsonage Rd – She noted several parts so the project that she feels doesn’t meet the Land Use Ordinance.

Chris Cabot reviewed the questions addressed during the public comment.

Building Cap / Affordable Housing – That is not something on the Planning Board purview. The Code Enforcement office is responsible for that.

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HOA Document – The Planning Board requested a complete copy of the Homeowner Association Agreement for review. Yarmouth Water District’s requests should be included into the agreement if they haven’t already.

School Capacity – The applicant provided a statement from the school’s superintendent on June 27 regarding the 12-unit subdivision and the capacity. If the Superintendent has deemed there is 20% capacity the project would be phased.

Buildings in Ground Water Overlay – The CEO will be reviewing the number and ensure that we are complying with the numbers set forth in Section 9.2.C ordinance.

Snow Dump – Ben Smith indicated that this is not a snow dump, by definition, it is rather an indication of where the snow will be pushed on site.

Parking Lot Size – Ben Smith reviewed his findings of the parking lot; he indicated that the applicant is exceeding the minimum requirements which means they are in compliance with the ordinance standards. When an applicant exceeds the minimum, the Board should pay close attention to screening, fencing or other things that could be an impact of a larger parking area. We review to see where the snow is going to go (taking up parking spaces or pushed off the property) and potential impact of landscaping or lighting. The standard is one island for every twenty spaces.

Lot Size Requirements – Based upon our new design standards, the Board have received a letter from the Code Enforcement Office stating that the design of the structures meet that new design standards. Ben Smith reviewed the updated plans in connection with North Yarmouth’s Land Use Ordinance.

Traffic Speed – That is not part of the Planning Board purview, that is between landowner and buyer.

Whether the Unit are Insurable – That is not part of the Planning Board purview, that is between landowner and buyer.

Septic Analysis – The applicant has met the requirements.

Lighting – Steve Roberge noted that there is no lighting except for dark sky lighting is installed on each of the building’s entrances.

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Traffic Analysis – There is no local threshold for a traffic study. There has been some review of the traffic regarding site distances. Having the sidewalks on the sides of the project is going to help with pedestrian safety. The Department of Transportation require studies once you approach 100 peak hour trips with project doesn't meet those requirements for state permitting.

Propane tank location / protection - The Planning Board members discussed with the applicant the location of the proposed propane tank and how they would be protected from potential damage. It was asked that the applicant consider adding some vegetation around the tanks/bollards to help with aesthetics. It was brought to the attention of the Board that the propane tanks are around the area where the Yarmouth Water District's test pit is located. Chris Cabot noted there must be follow up with Eric at the YWD on the location of the tanks.

Chris Cabot motioned to find the Deacon Hayes Commons preliminary subdivision plan and site plan application complete with following conditions are met with the final application submission.

Additional Items required for final application:

- **Complete Homeowners Association Agreement**
- **Suggestion for vegetative buffer around propane tank or having the tanks underground and show the bollards on the plan.**
- **Confirm Yarmouth Water District is aware of the location of the propane tanks**

Paul Metiever seconded the motion. Discussion.

During discussion Jeff Brown indicated he was leery of approving this type of project since the land use ordinance doesn't speak to these multiunit complexes. It is the first of its kind and the Board is doing the best they can to follow a land use ordinance that doesn't really speak to this type of structure. The Land Use Ordinance that feels like swiss cheese and the Board is trying to find ways to make something work that isn't even considered in this. When you have someone who stands to make money and then you have a volunteer board with a swiss cheese land use ordinance that doesn't even talk about this kind of thing he expressed his feelings of being leery of passing this in this form right now. The Planning Board is a volunteer Board and we have made a few small changes over the past year to the Land Use Ordinance but no large changes. But when you have someone who is motivated, they can go through and find ways to make things work and make

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changes. Chris Cabot noted that the Board has approved apartments in the past although not to this scale. He inquired what Jeff would propose on the next step and right now this project with some additional clarification points is meeting our Land Use Ordinance as it is written in Chris's mind. He indicated that the Planning Board's role is to see if projects are meeting our standards and make that decision. In the absence of something that is not meeting our standards, the Board is obligated to vote. Kimry Corrette noted on page 32-33 of Land Use Ordinance, written information required because of the ground water overlay submission requirements: Background water quality data from onsite monitoring well. She also noted that she feels the project is nonconforming and it could be open to interpretation. She feels that building #2 and building #3 are nonconforming the way the properties were separated to have a septic off the lot, it was put on the adjacent lot. It was concluded that all four septic are on the common area. She doesn't feel approving this without properly defining it and finding a place for it in the ordinance. She stated that it is about protecting the land and building responsibly, and she feels it may be irresponsible of the Planning Board to approve this without properly finding a place where it belongs in the Ordinance.

Judy Potter – No address provided – commented that many of the abutters are also opposed to this project. It is one thing to look at this on paper but is another thing to have these four buildings 20 ft from the road. She stated that she wished we could work together and come up with a compromise. Maybe reduce the size or something. People are not going to be happy having this built. It is about protecting the water and building responsibly.

Ben Smith stated that the Board should act on the preliminary application tonight, the ordinance states that within 30 days of the public hearing. It is good that the Board is asking questions in the specific things but ultimately where the board need to go with the discussion is does it meet the standards or not. If a Board member doesn't feel it meets that standards it will need to be part of the records on which standard it doesn't meet. There will need to be more specifics around what the project is not meeting rather than general concerns about the project.

In the staff memo there is a recommended motion, and it is based upon the findings of fact which are all the statements and representations that have been made by the applicant, all of the materials that have been submitted and then there are conclusions of law. Those conclusions are does it meet each standard.

Vote 3 Yes / 1 No

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Laurie Bachelder noted the number of hours and public comments that has happened over the past 4 months. At the June meeting, it was asked what materials or data was needed and now again there is more information needed. She commented how much she appreciated all the Planning Board. She did acknowledge that the Land Use Ordinance needs but the project shouldn't be penalized because the Ordinance can't be interpreted or doesn't want to be interpreted. The process on how the meetings is supposed to be run is that you have public comment and then the Board deliberates on the project verses the Standards. She stated that it appears that the audience is part of the planning board. She is requesting that if the Board provides her two weeks to prepare materials for the next meeting, the public should also be providing their comments or concerns so they can be addressed immediately. The planner has identified that all of the materials have been meet but it feels like the Board is trying to find ways for this to not fit. It shouldn't be an emotional vote with the Board members. She indicated that at the meeting it may be a good idea to have the town attorney involved and she will be having her as well.

Ben Smith indicated that the Planning Board should vote on whether another public hearing is needed for the next meeting. The Planning Board should have a discussion with the Town Manager regarding the town attorney will be present at future Planning Board meeting.

Jeff Brown made a motion to hold a public hearing at the August 9 meeting on the final application of the Deacon Hayes Commons Subdivision Project; Paul Metiever seconded the motion. Discussion. Vote 3 Yes / 1 No

V. New Business

a. Sketch Plan Review – Edge Energy

Joel Dunkin reviewed the proposed change of use at 18 Mill Ridge Road. He has a serviced company that he would be looking to move into that property which used to be an excavation company. The property of located in the Farm and Forest district. He indicated that he has 4 to 5 vehicles that will be used for picking up from the location which will be generally used for storage of the equipment. All the techs take their vehicles home each night so there will not be any storage there onsite. There will be an office/operations manager and then himself coming and going. There are a couple of deliveries of equipment between 8 AM - 3 PM.

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b. Sketch Plan Review – Learning Time Child Care

Dino Scala provided an overview of the experience the owner of Learning Time Child Care has had with running a childcare facility. The childcare is currently in Cumberland Maine, and it is licensed for 40 children. The lease of her current facility is over at the end of July, and they are looking to open the new facility at the Congregational Church at 3 Gray Road as of September 1, 2022. The basement of the church is approximately 2400 sq ft with push doors, sprinkler systems and an alarm system. In the past the facility was used as a classroom setting. Chris Cabot requested that the project be reviewed to ensure this is a change of use which need to go to the Planning Board.

c. Finding of Facts - Lady Slipper Hill Minor Subdivision

Tabled until August

VI. Any other Business

a. Review of Previous Years Applications.

The review was previously sent to Board members to review.

b. Administrative Business

▪ Public Hearing – Land Use Ordinance

Chris Cabot indicated that the Planning Board will need to hold a public hearing on proposed changes to Section 6.3 and Table 7.2 of the Land Use Ordinance that was submitted to the Town as a petition. He indicated it was a requirement of the Planning Board to hold a public hearing for any LUO changes.

Chris Cabot made a motion to schedule a public hearing on August 9, 2022, regarding proposed changes to Section 6.3 and Table 7.2 of the Land Use Ordinance related to street frontage and set back requirements in the Village Center District; Jeff Brown seconded the motion. Discussion. Vote 4 Yes / 0 No

- **July Workshop** – There will be a July 22, 2022 workshop at 6:30 PM.

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VI. Adjournment

Meeting was adjourned 10.:45 PM.

Recorded by Tracey Cox, Executive Assistant to CEO/Assessor

Planning Board Members

Chris Cabot - Chair

Jeffrey Brown - Secretary

~~Sandra Falsey, Board Member~~

Paul Metevier, Board Member

Kimry Corrette, Board Member

~~Sanford Peabody, Alternate Member~~