

**Town of North Yarmouth**  
**Planning Board**  
**Meeting Minutes of August 9, 2022**  
**Business Meeting**

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

**I. Executive Session Call to Order**

The meeting was called to order at 6:08 PM. Present: Chris Cabot (Secretary), Kimry Corrette (Board Member), Jeffrey Brown (Board Member), Sanford Peabody (Board Member), Paul Whitmarsh (Alternate Board Member), Trey Milam (Alternate Board Member)

Absent without notice: Paul Metevier (Board Member)

**II. Executive Session**

**Chris Cabot motioned to move into Executive Session; Jeff Brown seconded the motion. Discussion. Vote 4 Yes / 0 No**

**I. Call to Order**

The meeting was called to order at 7:15 PM. Present: Chris Cabot (Secretary), Kimry Corrette (Board Member), Jeffrey Brown (Board Member), Sanford Peabody (Board Member), Paul Metevier (Board Member), Paul Whitmarsh (Alternate Board Member), Trey Milam (Alternate Board Member)

**II. Public Hearings**

**a. Deacon Hayes Commons**

**Jeff Brown motioned to enter into the Public hearing for Deacon Hayes Commons Final application; Paul Metiever seconded the motion. Discussion. Vote 5 Yes / 0 No**

Steve Roberge, SJR Engineering, reviewed the overview of the project.

Eric Gagnon, Yarmouth Water District – He noted that the language about vehicle maintenance was accidental removed but applicant indicated she would make sure it was added back into the agreement. He mentioned there was a change in regard to a HOA and there would be an agreement between the Developer and the Yarmouth Water District regarding the Annual Testing of the Advanced Wastewater Septic Systems, the non-salt solutions in the winter on the parking lot, the vehicle maintenance and the notification of an oil spill language. He noted his concern about their septic design and if the water travels in a different direction it wouldn't meet the ordinance, it would not meet the 5mg or 10 mg per liter to the property line.

Suggested solutions: If they are considering 30 mg per liter at that site that increases the concern there for the property line. Eric indicated that he asked the applicant if they had considered using a specific system where the effluent at

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that site is 10 mg per liter. (Fugi CEN Model) If they follow through with the annual sampling and they provide the YWD with the data and there is an action beyond the data if it doesn't look right.

Sol Dostilio, Parsonage Rd – He inquired about the letter from their lawyer that was sent to the Planning Board the day before the meeting. He discussed the content – School Capacity, Parking Lot, Town House Style Housing, Septic System, the neighborhood objects of this project and he requests a third party review of all materials is performed. Personal level - the proposed development is too large for the property, the size of the parking lot and the proximity to the building to the their property line, septic location near their property line.

Judy Porter, Walnut Hill Rd – She wanted to confirm that she has access to the most current plan. She inquired how many affordable housing units there will be, how will the data be in place for 25 years, who will monitor that, renting of the units, surveys for all of the property, building cap which building will be built in phase I.

Richard Fortin, Walnut Hill Rd – He discussed the Hydrogeological, Subsurface water flow conditions and stormwater analysis.

Linc Merrill, North Rd – He stated this was a complex project and the town hasn't had one like this before and because the project has changed multiple times, he feels there are a lot of unanswered questions. He feels that the Board should take all of the questions/concerns tonight, get legitimate answers so they can make an intelligent decision because absent that he feels there will be a lot of issues. He stated that he felt there was an error at the last planning board meeting that it was determined that the preliminary application was complete. He stated that the irrevocable letter of credit in the packet is undated and talks about terms and it states that is could be revoked with a 60 day prior notice. He feels that this is letter of credit is not irrevocable and based upon the Ordinance it needs approval by the Select Board. He brought to the Board attention that in Section 10.10 there is a financial requirement for the ability of the applicant to finance a project, he discussed a situation with the Investment company the Applicant manages and feels that board should be investigating whether the Applicant is financially viable to support this project.

David Reed, Country Creek – He inquired about how the Code Office interrupts the Land Use Ordinance.



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Steve Roberge, Agent – Responded to the public questions:

- **School Capacity** – He indicated that the July 12 meeting, the Applicant submitted documentation that stated the school district was all set with this project. Chris indicating since the last meeting, the Board has received a statement from the School District that they are over capacity and the Board will need to consider this new information and possible phasing of the project.
- **Parking Lot** – He reviewed how the calculated the number of parking lot spaces to accommodate the residents and guests. He reviewed the parking lot interruptions, landscaped and screening that have listed on the design.
- **Hydrogeological Assessment** – He noted that Mark Cenci did a great presentation around the assessment and it has been in their application. He noted that it was submitted a few months ago and it is just being brought up tonight.
- **Affordable Housing** – At this time, the applicant is proposing three middle units will be under the Affordable Housing category which means they will be deed restricted for 25 years. It is under the Code Enforcement Office to enforce this restriction and permitting. It has not been determined whether they will be rentals or sold.
- **Performance Guarantee/Letter of Credit** – He indicated that in the packets there is a letter dated May 25, 2022 there was a pre-approval packets for up to \$3.5 million. He did agree that the Irrevocable letter of credit he believes came on the same day as the pre-approval but agreed that it wasn't dated.

Sol Dostilio, Parsonage Rd – He note that there are two different things regarding the school capacity, the School is required to accept any students that move to town however they are more concerned about what the Town needs to do to follow the Land Use Ordinance. He expressed that the felt that the wrong questions were asked the school district. He indicated that the phasing of the project should not be solely on the building cap. He expressed his feelings on the parking lot size. He discussed Section 9.2.4.A regarding stormwater for frequently used parking lots. He also inquired if there is a requirement to publicly share who is invested in this project. Chris Cabot responded that the Planning Board only need to see title and interests of a property, the Applicant is not required to disclose who the members of the LLC are.

John Ferrell, Parsonage Rd – He expressed his concerns the project places twelve separate families in the foot print where there was in single family resident. He express his concern about the parking and indicated that renters are not going to

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**Chris Cabot made a motion to close the public hearing for the Deacon Hayes Commons final plan review; Paul Metiever seconded the motion. Discussion. Vote: 5 Yes / 0 No**

**b. Land Use Ordinance Suggested Amendments**

**Chris Cabot made a motion to enter into a Public Hearing for the Suggested Land Use Ordinance Amendments; Jeff Brown seconded the motion. Discussion. Vote 5 Yes / 0 No**

Chris Cabot reviewed the suggested amendments to the Land Use Ordinance in Section 6.3 and Table 7.2 going to ballot at the November election.

Mike Mallory, Walnut Hill Rd – He stated that this Land Use Ordinance have been an issues for three years and if they had been addressed back when people started complaining then many of the current issues would not be happening.

Aliza Bachelder, Walnut Hill Rd – She inquired that the suggested change would change the road frontage to 100 ft. She stated that with this change no one would be able to afford to live here anymore if you have to have a minimum of 100 ft road frontage.

**Chris Cabot made a motion to close the public hearing for the Land Use Ordinance Suggestion Amendments; Paul Metiever seconded the motion. Discussion. Vote: 5 Yes / 0 No**

**III. Minutes Approval**

Tabled

**IV. Old Business**

**a. Deacon Hayes Commons Major Subdivision/Site Plan Review**

Ben Smith, Town Planner, reviewed an overview of the process that has transpired up to this meeting. He indicated that at the final application stage of the process there are additional documentation required that the Applicant had submitted regarding the department head review, water district review but in light of those materials that we had on hand they are making a recommendation that the application is complete. He stated that the finding of completeness does not preclude the Board from asking additional information in order to help understand and how the project meets the performance standards but it is really a base line level of has the Applicant submitted everything they need to submit for the Board to consider. He discussed what the Board should be determining



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how the project is meeting and how fact that the units may be rentals or owned doesn't not impact what the Board should be considering. It would be important as part of this review process to have an understanding of who the responsible entity would be for some of those same elements; it is one person or is it an organization as well as who will be responsible for interacting with Code Enforcement going forward. He noted that the Town doesn't enforce covenants or homeowner association, but they do enforce things that are part to of the site plan approval which are submitted as a part of the application, representation made by the applicant during Planning Board meetings and conditions of approval on the plan. He noted with the performance guarantees it is not common to cover all of the project typically it covers the of improvements, and the public realm, such as extension of utilities unto the site, getting into stormwater, road repairs, curbing, and drainage etc. It would not be appropriate to have a performance guarantee on the buildings themselves, that is a construction activity, there isn't a public reason, they must meet code.

The Board reviewed and discussed the Planner memo from 7/27/22.

Paul Hodsgetts, Select Board Liaison – He asked the Board if the Performance guarantee should have been approved by the Select Board before now. It was determined that it is not clearly defined in the Land Use Ordinance. He also inquired what happens if the Select Board doesn't approve the Performance Guarantee, it was concluded that there would be no construction without the approval.

Ron Goddard, Developer on the Project – He offered a solution to the situation of setting up a cash escrow in lieu of the Irrevocable Letter of Credit. Ben Smith indicate that cash escrow is one of the acceptable options to establish a guarantee in the Land Use Ordinance.



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**Chris Cabot motioned to find the Deacon Hayes Commons Final Subdivision Plan and Site Plan Application complete subject to the acceptance of the amount and the form of the performance guarantee approved by the Select Board prior to issuance of building permits; Paul Metevier seconded the motion. Discussion. Vote 5 Yes / 0 No**

**Kimry Corrette made a motion to vote to see if the Board will require a Hydrogeologic Third-Party Review for the Deacon Hayes Commons project; Jeff Brown seconded the motion. Discussion. Kimry Corrette withdrew her motion but would is requesting to add a condition of a memo from the Yarmouth Water District Hydrogeologist's review of the newly suggested updated Septic system (model CEN) to be submitted to the Code Enforcement Office.**

Ben Smith, Town Planner – indicated that typically this type of request for third-party review is done during the technical phase of the review, although some of the information was not available at that time. He also noted that there time frames involved when acting on applications from Public Hearing and findings of completeness. He expressed his concerns with the timing of the third party review, there is no Planning Board meeting scheduled within 30 days of this meeting and unless the applicant agrees to allow an extension, the Board would be out of compliance with the Land Use Ordinance. He reiterated that Eric from the Yarmouth Water District indicated that he and applicant agreed if they used the upgraded system along with the annual maintenance agreement/testing. If they didn't comply with these conditions the systems would be deemed as failed systems.

Eric Gagnon, Yarmouth Water District – The Board deferred to Eric on how comfortable the Water District was with the suggested conditions and system upgrade. He indicated that he was satisfied with the suggested conditions, he also indicated that he can reach out to his hydrogeologist to review and run the calculations on a finality on the system.

Sol Dostilio, Parsonage Rd – He stated that the Third-Party review is important to him as an abutter.

**Chris Cabot made a motion to approve the final subdivision and site plan for Deacon Hayes Commons located at tax map 007 lot 062 with the following findings of fact and conclusions in the planning memo dated 7/27/22 with the seven conditions as read at the meeting; Jeff Brown seconded the motion. Discussion. Vote 1 Yes / 3 No / 1 Abstained**

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Due to the Board vote, the Town's attorney instructed the Board that they will need provide the Applicant details on what additional information, deny the project for specific prevision of the Land Use Ordinance or have further discussion on the standards in the Ordinance to determine what you find to be insufficient based on specific standards in the ordinance that they are obligated to apply. He suggested that the Board set a date with the next 30 days to reconvene to list out the actual ordinance sections that the Board find aren't being meet.

Steve Roberge, Agent – He addressed the Board for clarification, he indicated that the project has already gone through a technical review, the project has received a preliminary & final approval for completeness and now the Board is asking for more information. He questioned what the Board is going to base your rejection on when you have already gone through the conclusions of law for the subdivision and the site law have already been approved.

**Paul Metevier motioned to deny the Deacon Hayes Commons Project; Paul withdrew his motion to deny the project.**

**Chris Cabot made a motion to table the Deacon Hayes Commons final application approval until August 23, 2023 at 6:30 PM; Jeff Brown seconded the motion. Discussion. Vote 4 Yes / 1 No**

**V. New Business**

**a. Site Plan Review/Change of Use – Edge Energy**

Joel Dunkin, Owner Edge Energy - 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.

Ben Smith, Town Planner – Reviewed his Planner memo on the project, after reviewing the application, it has been deemed complete.



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**Jeff Brown motioned to find the Edge Energy Site Plan/Conditional Use application complete; Paul Metevier seconded the motion. Discussion. Vote 4 Yes / 0 No / 1 Abstained**

**Chris Cabot motioned to approve the site plan for Edge Energy located at Map 16 Lot 14 based on the Findings of Fact and Conclusions of Law for the Planner memo dated July 26, 2022; Paul Metevier seconded the motion. Discussion. Vote 4 Yes / 0 No / 1 Abstained**

**b. Site Plan Review/Change of Use – 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.

Ben Smith, Town Planner – Reviewed his Planner memo on the project, after reviewing the application, it has been deemed complete.

Chris Cabot discussed two letters from Abutters that expressed concerns about the proposed use and a letter from the Chair of the Board of Trustees from the North Yarmouth Congregational Church.

Bill Holden, New Gloucester Rd – He asked how many total kids will the childcare be enrolling now and down the road, they are licensed for 40 but he would like clarification. He also inquired whether the childcare has liability insurance. He identified that traffic was also a concern.

Dino Scala, Agent – He confirmed that most the childcare owner has enrolled at one time was 25 but she also has two more staff members than she has now. It is all based on ratio and age with the state. He confirmed that the childcare has full coverage liability insurance and so does the church. The reason for the fencing is to ensure that the kids do not wander onto anyone else's property.

**Chris Cabot motioned to find the Learning Time Site Plan Review Application located at Tax Map 010 Lot 20 complete for the submission requirements; Paul Metevier seconded the motion. Discussion. Vote 3 Yes / 2 Abstained**

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**Chris Cabot motioned to approve the Learning Time Site Plan Application located at Tax Map 010 Lot 20 based on the findings of facts and conclusions of law from the Planner memo dated July 27, 2022; Paul Metevier seconded the motion. Discussion. Vote 3 Yes / 2 Abstained**

- c. Sketch Plan Review, Village Green Apts

Tabled to September Meeting.

- d. Finding of Facts - Lady Slipper Hill Minor Subdivision

**Chris Cabot motioned to approve the Finding of Facts dated June 16, 2022 for Lady Slipper Hill Minor Subdivision; Kimry Corrette seconded the motion. Discussion. Vote 3 Yes / 0 No**

**VI. Any other Business**

- a. Review of Previous Years Applications.

The review was previously sent to Board members to review.

- b. Administrative Business

- **August Workshop** – this meeting will be changed to a regular meeting

**VI. Adjournment**

Meeting was adjourned 11:35 PM.

Recorded by Tracey Cox, Executive Assistant to CEO/Assessor

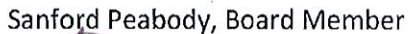
**Planning Board Members**



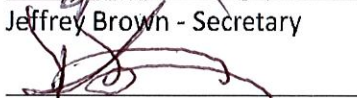
Chris Cabot - Chair



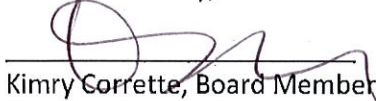
Jeffrey Brown - Secretary



Sanford Peabody, Board Member



Paul Metevier, Board Member



Kimry Corrette, Board Member



~~Troy Milam, Alternative Board Member~~



~~Paul Whitmarsh, Alternate Board Member~~