

YARMOUTH PLANNING BOARD MINUTES

February 22, 2023

I. CALL TO ORDER

Janet Hansen called the meeting to order at 7:00 PM.

II. ROLL CALL OF MEMBERS

PRESENT ABSENT

Wendi Holden, Chair		X
Janet Hansen, Vice Chair	X	
Hildy Ginsberg	X	
Mary Lynn Engel	X	
Jerry King	X	
Ian Cromarty	X	

OTHERS

Erin Zwirko, Director of Planning & Development
Julie Dubovsky, Assistant Planner

III. APPROVAL OF MINUTES

Upon a motion duly made by Mary Lynn Engel, seconded by Jerry King and carried by a roll call vote of 5-0 the minutes of the February 8, 2023, meeting were approved.

IV. COMMUNICATION

Erin Zwirko introduced the Recommended Trees and Tree Protection Guidelines from the Yarmouth Tree Advisory Committee and noted that there were members attending in person and online. She suggested that the Planning Board can take it under advisement as a good resource for the board and applicants.

YTAC member Lisa Small provided background on the guidelines. They were developed to provide guidance to property owners on tree replacement, after receiving frequent requests, and for applicants or their contractors on standards for tree preservation during construction activity. It provides a simplified list and elevates the preference for diversity (rather than a monoculture), native species and resiliency to climate change and pests.

The Board discussed how best to share this resource with homeowners, condos/HOAs, and local plant nurseries like Estabrooks and O'Donnells. Susan Prescott is working closely with Estabrooks on Latchstring Park plans and the YTAC will provide it to them and other vendors. Erin noted that if the YTAC may want to amend the current incongruous past lists in the Character Based Development Code and the Main Street Streetscape Master Plan. If so, the proposed language would need to be presented to the Planning Board, and

the approved by the Town Council. The document is available on the Planning Board website now, but it could be shared by the YTAC through various channels, like the Town's newsletter, to better reach the community.

V. PUBLIC HEARING ITEMS

A. OLD BUSINESS:

None

B. NEW BUSINESS:

1. Action Item: Final Development Plan, Building & Lot Plan, Major Site Plan, & Major Subdivision; CD-4, Village Center District; New Construction in the ower Village Historic District; 90 Main Street; Map 32 Lots 7 & 11; Charlie Hewitt and Kate Carey, Applicants.

The applicant seeks approval of a common development scheme at 90 Main Street and the rear property. The existing structure at 90 Main Street remains, and the applicant proposes to develop two single-family homes behind the existing structure at 90 Main Street. Two two-way driveways are proposed in their existing positions and parking and other site improvements are also proposed. This proposal will require approval of a Development Plan and Building & Lot plan per Chapter 703, Character Based Development Code, Major Site Plan per Chapter 702, Site Plan Review, and Major Subdivision Plan per Chapter 601, Subdivision. This is a Final Submission, and vote may be taken. Public comment will be received.

Adam Lemire, the applicants' architect and representative, reviewed changes in the final application. Adam responded to the conditions from the last meeting, including: reviewing the turning radius for garbage removal, inclusion of some pervious pavement, revisions to the Landscape Plan in consultation with the Tree Warden, an easement for 18 Portland St (the Titcomb Property) to 25' off the property line, revised HOA documents, submitted a Construction Management Plan for Town review, and incorporated streetscape improvements and architectural recommendations from the HPC. They will continue to coordinate with the Yarmouth Water District and Town Engineer regarding utility access from Main Street and limit use of Portland Street only when necessary.

Vice Chair Hansen opened to public comment.

Marge Titcomb, 18 Portland St.

Marge thanked the Board for the work done to limit the impacts of the project to the best of their ability. They remain concerned about the water line access via Main St and ensuring that the easement will provide 25' off their property line. Previous public meetings discussed using that use of the Portland St. driveway during construction should require approval by Town Engineer. She expressed appreciation for the work of the Tree Committee to ensure the elm tree's survival.

Susan Prescott, 58 Hillside St.

Continues to be really concerned about the trees on and surrounding the property. She has lobbied for the YTAC's standards be applied to this project. Feels very strongly that the Board should require the applicant to use permeable materials because it gives the trees a fighting chance. Town employes a Tree Warden to hold Town to standards of the arborist profession, but he was not able to attend the site walk or attend the Planning Board meetings. She requested that the Board defer the vote on the project until the Tree Warden can attend. She also asked if, since the lots are for sale, if all the work on the architectural details will be carried through or if this review process will have to occur again.

Karyn MacNeill, Director of Yarmouth Community Services

Attended to answer any questions since Tree Warden is on vacation.

Public comment closed.

E.Zwirko clarified that Conditions of Approval #14 and #15 directly relate to the sale of the lots and requiring additional review in the plans deviate from what was reviewed and approved. Relative to the water line, when the Yarmouth Water District reviewed the utility plan submitted, the Superintendent expressed some concern about the separation of utilities so a Condition of Approval requires the applicant to coordinate with the Water District and other utilities.

The Board expressed some concerns around the language for accessing the lot from Portland Street. E.Zwirko noted that the Traffic Management Plan doesn't include express approval from the Town to use Portland Street and that the Board may want to add a condition of approval on this topic.

The Board also requested clarifications regarding the YATC standards for tree preservation application to the site. E.Zwirko explained that tree protection recommendations from the committee were reviewed relative to the proposed application. The applicant has attempted to balance all the comments about trees relative to the concerns of the Fire Chief and the Tree Committee with input from the Tree Warden.

The applicants' representatives reiterated their dedication to tree preservation and the necessity to balance with practical and timely aspects of construction needs. They will continue to coordinate with the Water District, the Town and to solicit guidance from the Tree Committee. The revised Landscape Plan shows that fences around the trees are at least 10 feet from the trunk, which was reviewed and accepted by the Tree Warden.

Susan Prescott of the YATC clarified the standards for tree protection require fencing at a distance of 1.5 times the diameter at breast height. Using the Portland St heritage elm tree as an example, she explained that this tree would need to be fenced at 5 feet from the trunk around but that she recognizes this is infeasible on Portland St. She gave an example of insufficient protection at other locations and emphasized the need to hear directly from the Tree Warden.

E.Zwirko clarified the process for application distribution and reviews by the various departments and staff.

The following motions were made:

Based on the application, plans, reports and other information submitted by the applicant, information from the public hearing, information and the findings and recommendations contained in Planning Board Report dated February 16, 2023 for Development Plan and Major Subdivision, Charles Hewitt and Katherine Carey, Applicant; 90 Main Street Development, Map 32 Lots 7 and 11, regarding the compliance with the applicable regulations and standards of Chapter 703, Character Based Development Code, and the applicable regulations and standards of Chapter 601, Subdivision, the Planning Board hereby finds and concludes that the Development Plan and Major Subdivision meets the required standards and is therefore approved subject to the following conditions of approval.

Such motion moved by Ian Cromarty, seconded by Jerry King, and voted 4 in favor, 1 opposed, Mary Lynn Engel (Wendi Holden absent).

Based on the application, plans, reports and other information submitted by the applicant, information from the public hearing, information and the findings and recommendations contained in Planning Board Report dated February 16, 2023 for Building and Lot Plan and Major Site Plan, Charles Hewitt and Katherine Carey, Applicant; 90 Main Street Development, Map 32 Lots 7 and 11, regarding the compliance with the applicable regulations and standards of Chapter 703, Character Based Development Code, and the applicable regulations and standards of Chapter 702, Site Plan Review, the Planning Board hereby finds and concludes that the Building and Lot Plan and Major Site Plan meets the required standards and is therefore approved subject to the following conditions of approval.

Such motion moved by Ian Cromarty, seconded by Jerry King, and voted 4 in favor, 1 opposed, Mary Lynn Engel (Wendi Holden absent).

1. Prior to the issuance of a building permit, the applicant shall record the confirmatory easement for access over Rose's Place and provide evidence to

the Director of Planning & Development of the recording from the Cumberland County Registry of Deeds.

2. Prior to the issuance of a building permit, the applicant shall record the Post Construction – Stormwater Inspection & Maintenance Plan and provide evidence to the Director of Planning & Development of the recording from the Cumberland County Registry of Deeds.
3. Prior to the issuance of a building permit, the applicant shall update the 90 Main Street Condominium Association documents to describe how parking spaces will be assigned and managed. The applicant shall provide the final version of 90 Main Street Condominium Association documents to the Town Engineer and Director of Planning & Development for review and approval. Evidence of recording from the Cumberland County Registry of Deeds shall be provided to the Director of Planning & Development.
4. Prior to the issuance of a building permit, the applicant shall revise the Second Amended Condominium Plat for the 90 Main Street Condominium to: a. Reference the conditions of approval outlined in the Planning Board's February 22, 2023 approval, and b. Revise General Note 5 to reference any deviation from the Planning Board's February 22, 2023 approval may require additional review by the Yarmouth Planning Board and/or the Yarmouth Historic Preservation Committee.
4. Prior to the issuance of a building permit, the applicant shall provide specific documentation for the 21-foot long solid waste hauler to ensure that the vehicle's maneuvers are possible.
5. Prior to the issuance of a building permit, the applicant shall coordinate with the Yarmouth Water District, Summit Natural Gas, and Central Maine Power to ensure that all horizontal separation can be achieved for the utilities coming off of Main Street and is acceptable to each utility. Following written approval from the three utilities, the applicant shall submit the final utility plan to the Town Engineer and Director of Planning and Development.
6. Prior to the issuance of a building permit, the applicant shall address all of the Town Engineer's plan review comments outlined in his memorandum dated February 6, 2023.
7. Prior to the issuance of a building permit and preconstruction meeting, the applicant shall provide a pedestrian and bicycle detour plan that illustrates how pedestrians and bicyclists will be safely detoured around the site on Portland Street and on Main Street.
8. Prior to the disturbance of any soil or vegetation or the start of any site work, the applicant shall install the tree protection provisions and have the Tree Warden review and approve the installation. During construction, the applicant and their construction manager/contractor shall ensure that tree protection measures are maintained in good condition. The use of machinery, heavy foot traffic, storage of building materials, washing equipment, use of chemicals, and similar hazards should be avoided. The applicant and their construction manager/contractor shall ensure that crane mats are utilized wherever heavy equipment is expected to operate near the protected tree.

9. The applicant shall coordinate with the Town Engineer, the Director of Public Works, and the Director of Planning & Development regarding the use of porous pavement at the site. If porous pavement is used, the maintenance of the porous pavement shall be added to the 90 Main Street Condominium documents following review and approval of such language by the Town Engineer, the Director of Public Works, and the Director of Planning & Development. If porous pavement is not used, the applicant shall submit an updated plan showing the elimination of the porous pavement for review and approval by the Town Engineer, the Director of Public Works, and the Director of Planning & Development.
10. A sewer connection permit application and fee for each building shall be required prior to the issuance of any building permit. During construction of all sewer infrastructure, all work must be inspected by Town staff prior to backfilling and all sewer work shall be constructed per Yarmouth Town Standards. All sewer infrastructure to be abandoned all be as directed by the Town Engineer.
11. Erosion and Sedimentation Control (ESC) best management practices (BMPs) shall be installed prior to the disturbance of site soils and vegetation. During construction, the applicant and their construction manager/contractor shall perform the required inspections and enforcement of the ESC plan per Maine Department of Environmental Protection requirements, including weekly inspections and documentation of all inspection work. In addition, the Town will be performing site inspections and will be reviewing the inspection records per the Town's NPDES MS4 General Permit.
12. All storm drain infrastructure shall conform to Yarmouth Town Standards. All connections to Town infrastructure shall be per Town requirements.
13. Should the style or position of Unit 3 or Unit 4 or any of the site improvements deviate from the plans reviewed and approved by the Planning Board, the applicant shall return to the Planning Board and/or the Historic Preservation Committee to amend the Building and Lot Plan and/or Site Plan and for further review as new construction in the Lower Village Historic District.
14. Any deviation of the lot lines from the approved Subdivision Plan or Development Plan shall require further review by the Planning Board.
15. An irrevocable letter of credit or cash escrow and a non-refundable two percent (2%) inspection fee will be required for the estimated cost of the infrastructure located in the public right of way as well as the site drainage, bike rack, Hot Mixed Asphalt (HMA)/porous pavement, stormwater BMPs, erosion, and sedimentation control (ESC) and landscaping. Also, prior to issuance of building permits or the commencement of work, the applicant and their selected construction contractor shall attend a pre-construction conference with Town staff at a mutually agreeable date and time. Also, prior to issuance of building permits, the applicant shall satisfy all Town concerns and provided updated drawings as required. All other permit applications and fees will be required prior to the release of a building permit.

ADJOURNMENT

With no objection, the meeting adjourned at 8:00 PM.

Respectfully submitted:

Wendy Simmons, Administrative Assistant, Recording Secretary