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**YARMOUTH PLANNING BOARD MINUTES**

September 13, 2023

**I. CALL TO ORDER**

Chair Holden 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	
Matt Schumacher	X	

**OTHERS**

Erin Zwirko, Planning Director  
Julie Dubovsky, Assistant Planner

**III. APPROVAL OF MINUTES**

Upon a motion duly made by Jerry King, seconded by Janet Hansen and carried by a roll call vote of 7-0, the minutes of the August 9, 2023, meeting were approved.

**IV. COMMUNICATION**

E. Zwirko gave an update.

- The Planning Department and North Star Planning held a very successful Community Conversation on Housing on September 11<sup>th</sup>. Upcoming dates include Economy on September 18<sup>th</sup>, Environment and Natural Resources on October 2<sup>nd</sup>.
- The latest information on 298 Main St & Railroad Square, after meeting with Rob Barrett last Friday, is that the sale to a different developer fell through this summer and Site Plan Review approval has expired. Urban fill was found in the basement and remediation brought the cost up. The Town is coordinating with the owner. Any project will again need to go through the Historic Preservation Committee, which didn't exist when the project was initially proposed, and Site Plan Review by the staff and Planning Board.

Matt Schumacher disclosed that he is an abutter to several of the projects on the agenda tonight.

**V. PUBLIC HEARING ITEMS**

**A. OLD BUSINESS:**

None

**B. NEW BUSINESS:**

**1. Action Item: Substantial Modification of Structures in the Demolition Overlay Zone and within the Upper Village Historic District, 3 Church Street, Map 41 Lot 43: Carla Hunt and Andrew Tonks, Applicants.**

The applicant is requesting review of the alterations to the structure that are readily visible from the public street, which are considered a substantial modification. The alterations include the replacement of six (6) windows. Replacement will consist of double hung inserts to match existing windows and preserve the integrity of the home and will be installed into the existing frames so as not to impact the exterior trim.

As the buildings are located in the Demolition Delay Overlay Zone and are older than 75 years, it is assumed that the structures are Buildings of Value under Chapter 701, Article IX, defined as a building that has architectural, cultural, historical, or archaeological significance, contributes to an overall setting or streetscape, or otherwise of a character defining a particular area, neighborhood or streetscape.

The Planning Board will determine whether the proposed design retains and respects the significant character defining features of the buildings. As part of its determination, the Board may apply a delay of 180 days to undertake efforts to modify the design to retain and respect the significant character defining features of the building and/or other efforts outlined in Chapter 701, Article IX. The Board may also waive any delay if it determines that the proposed design retains and respects the significant character defining features of the buildings.

Andrew Tonks, the applicant, briefly spoke about the project goal and noted that they did not have anything further to add from the report.

Chair Holden opened to public comment.

Rob Anderson, 40 Church Street.  
Spoke in support of the proposal as a neighbor of the applicant.

Public comment closed.

The Board asked for clarification on the number of windows proposed for replacement and whether the new windows match the originals. The applicant clarified that 6 windows, out of 23 total, are proposed for replacement, and that other windows have been replaced previously. The Board asked if neighbors would notice a difference when walking by. E. Zwirko explained that while they're substantially the same, page 6 of the report shows what the new windows will look like, noting that the one missing element is a middle horizontal muntin in the upper exterior lites.

The following motion was made:

On the basis of the plans presented by the applicant, the testimony and public hearing, and of Planning Memo dated September 7, 2023 regarding the application of Chapter 701 Article IX, Historic Building Alterations and Demolitions, for the substantial modifications to 3 Church Street, Map 41 Lot 43, Carla Hunt and Andrew Tonks, Applicant, the Planning Board finds that the proposed design retains and respects the significant character defining features of the building, and therefore

waives the delay period, and allows that the substantial modifications proceed subject to Town Planning Authority approval and the following condition:

1. The applicant shall seek to donate the 6 historic windows to an architectural salvage.

**Such motion moved by Janet Hansen, seconded by Mary Lynn Engel, and voted 7 members in favor, 0 members opposed.**

**2. Action Item: Final Ch. 702 Site Plan Review and Ch. 703 Building & Lot Plan and Site Improvements in the Upper Village Historic District; Latchstring Park; CD4 Village Center; Main Street; Map 41 Lot 41; Town of Yarmouth, Applicant.**

The applicant is requesting a final review for a Major Site Plan pursuant to Chapter 702, Site Plan Review, and Building and Lot Plan pursuant to Chapter 703, Character Based Development Code, to renovate the existing, town owned Latchstring Park at the intersection of West Main Street and West Elm Street. The proposed project includes new open air meeting space, landscaping, hardscape points of interest, irrigation, and an adjustment to site parking.

Mary Lynn Engel recused herself from the agenda item.

Steve Johnson, the Town Engineer, gave an overview of project, its history and next steps. He commended the Latchstring Park Taskforce for all their hard work on behalf of the town.

Chair Holden also thanked the Taskforce for their work. I. Cromarty asked if overnight parking spots could be added to the plan. S. Johnson will discuss with the Director of Public Works. The Board asked for clarification on the waivers being requested. S. Johnson explained that they are requesting waivers for a photometric plan, as they will adhere to the Town standards, a stormwater analysis, and high intensity soils report as his department is following Town standards for stormwater best management practices, reduces impervious surfaces beyond 20%, and the use is remaining parkland.

The Board then discussed the potential vehicle movement impacts to Coastal Manor and concerns about safety for park users. The Town's traffic peer reviewer, Tom Errico, reviewed the project and did not foresee an impact. Trucks making deliveries have good sight distance visibility of the park and its users.

S. Johnson will explore if an EV charging spot is feasible, which the Board noted could be a standard at all municipal lots. The Board also wanted assurance that the Town would bring the project back to the Board if, after bid conversations, major redesign of the proposal was necessary. S. Johnson affirmed they would for greater than material deviations.

Chair Holden opened to public comment.

Nancy Gorden, 240 West Main Street.

Will there be any native plants or pollinators in the landscaping?

The project Landscape Architect, Josh Tompkins, answered that most of the plants are native and will be a substantial improvement from what's there presently.

Ed Ashley, 20 Spartina Point.

Regarding truck traffic, felt that with no incursion onto Paddy Lane that this plan would have no impact on Coastal Manor's deliveries.

Susan Prescott, 58 Hillside Street.

As Chair of the Taskforce, she added that regarding potential impacts to Coastal Manor and traffic, the taskforce did their due diligence when meeting with all the department heads and the former owner of Coastal Manor. The former owner felt it would be an improvement for his residents and business. She reiterated the proposed redesign that suits pedestrian movements at the corner and to Paddy Lane, and shared the recommendations from the BPC and the potential for Advisory Bike Lanes on Paddy Lane to give further definition to the street and space.

Merrill Chapin, 233 B West Main Street.

Will there be any historical reference to the family that used to live at that site, such as a plaque? S. Prescott responded that while the whole history of the site was important to the taskforce, and there are many who are involved with historic preservation too, they did not talk about putting a plaque there because lots of information is available at the Yarmouth History Center as to past uses. She offered to bring the idea back to the town. M. Schumacher added his support for that proposal and for continuing the past work of the Village Improvement Society to add historic markers throughout town.

Rob Anderson, 40 Church Street.

Reiterated support for the project Awesome and great piece of real estate in town and recognizing the awardees. What type of lighting will be used? Noted the potential impacts to adjacent residents and light pollution in town due to residential growth. Will Paddy Lane still be bi-directional in the final proposal? Could the public way, the last section of Paddy Lane beyond the park, just be open to pedestrians? S. Johnson responded that the lighting will be the town standard, with ped scale "cut off fixtures" that project light down and not out. Paddy Lane will remain two-ways. The area beyond is out of purview and would require Town Council action to shut down vehicular traffic. S. Prescott added that as part of their due diligence, they initially explored the one-way option. On Oct 4, 2020, the Taskforce had a neighborhood meeting in the park. Neighbors were opposed to one-way. A dead end was suggested and explored, but it wouldn't work for FD and DPW.

Public comment closed.

The Board discussed the design and how it responds to current users, notably the kids who bike through it at high speeds. S. Johnson responded that the Bike & Ped Committee gave input and the design reflects some intention to mitigate that with serpentine paths. E. Zwirko added that this was discussed with Bike & Ped Committee and the importance of balancing education and etiquette with overall safe streets. S. Prescott added that as a former member of that committee, intentionally accommodating children overall and encouraging them to use public spaces, like the "landing area," which invites intergenerational activity and community interactions.

The Board discussed making adjustments to the conditions of approval to reflect the commitment to return for review if changes were made beyond material deviations and the request to sign some spaces for overnight parking.

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 September 7, 2023, for Major Site Plan, Town of Yarmouth, Applicant; Latchstring Park Renovation, Map 41 Lot 41, regarding compliance with the applicable regulations and standards of Chapter 702, Site Plan Review, the Planning Board hereby finds and concludes that not requiring a photometric plan, stormwater analysis, and high intensity soils report is consistent with intent of the Site Plan Review Ordinance and is therefore approved.

**Such motion moved by Jerry King, seconded by Matt Schumacher, and voted 6 in favor, 0 opposed (Engel recused).**

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 September 7, 2023, for Major Site Plan, Town of Yarmouth, Applicant; Latchstring Park Renovation, Map 41 Lot 41, regarding compliance with the applicable regulations and standards of Chapter 702, Site Plan Review, the Planning Board hereby finds and concludes that not requiring a photometric plan, stormwater analysis, and high intensity soils report is consistent with intent of the Site Plan Review Ordinance and is therefore approved.

1. Any material deviations from the Latchstring Park Site Plans, dated August 16, 2023, may be approved by the Director of Planning & Development in consultation with relevant Town staff. Any significant changes shall be reviewed by the Planning Board as an amendment to this approval.
2. Prior to the issuance of a building permit, the applicant shall coordinate with the Yarmouth Water District to relocate the domestic water service for irrigation.
3. 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 West Elm Street and on Main Street. The plan shall also take into consideration any vehicular traffic that will be impacted, and in particular, vehicular traffic at Coastal Manor.
4. All necessary erosion and sedimentation controls (ESC) best management practices (BMPs) per the latest Maine Department of Environmental Protection (DEP) standards shall be installed prior to the disturbance of site soils and vegetation. The Town expects that during construction the applicant and their construction manager/contractor will maintain all BMPs in good condition by performing weekly inspections per DEP requirements.
5. All existing trees proposed to be retained shall be protected in consultation with the Tree Warden to the greatest extent practicable.
6. The Town Engineer shall consult with the DPW Director and the Police Chief to identify and install signage at up to 3 parking spaces allowing overnight parking.

**Such motion moved by Jerry King, seconded by Janet Hansen, and voted 6 in favor, 0 opposed (Engel recused).**

3. **Workshop Item: Preliminary Ch. 702 Site Plan Review and Ch. 703 Building & Lot Plan, Nuance Dental; CD4-C Route One Corridor; 233 Route One; Map 31 Lot 25; Cone Cladicals, LLC, Applicant.**

Approved: 9/27/2023

The applicant is requesting a preliminary review for a Major Site Plan pursuant to Chapter 702, Site Plan Review, and Building and Lot Plan pursuant to Chapter 703, Character Based Development Code, to remove the existing single-story building at 233 Route One and to construct a new building for prosthodontics practice. The existing foundation will be partially utilized in the new construction. The applicant's proposal also reduces the existing impermeable surfaces on the lot with a reduction in the parking lot size, from 31 spaces to 6 spaces, and revegetation of the property. A sidewalk and street trees are also proposed along the street frontage.

Patrick Boothe, the applicant's architect for the project, presented on the proposal and shared updated plans and renderings of the site and buildings from the concept review on June 28, 2023.

The Board appreciated seeing the phasing of the building construction and asked for clarification of the landscaping during the phasing and how the applicant will handle any changes over the phased construction. P. Boothe explained that they still plan on doing the retention wall and patio, which will stay the main entrance in Phase 1 and 2. The allée of street trees is planned for Phase 1 and do not plan on planting anything in the Phase 2 building footprint. E. Zwirko will check with the Town's legal counsel regarding Site Plan Review Approval and whether it can be a condition of approval for a 5-year timeline that works with the project and a threshold for additions within the site plan review.

The Board also asked whether a sign is proposed for the building and for clarification on the waivers being requested. P. Boothe noted that as the business is mostly referrals based, only small sign was proposed and is shown in the submitted architectural plan renderings. Initially the bay windows wouldn't require a waiver, but the current proposal has them cantilevered as a "box window."

Chair Holden opened to public comment.

No comments.

Public comment closed.

The Board discussed what would be helpful for the applicant to show at the next meeting, such as the building frontage and the orientation to the street. The Board asked that next time the applicant focus on Phase 1 design and how the different building orientations explored. It will help the Board determine what necessitates a waiver versus what is preferred aesthetically. P. Boothe noted that they studied the orientations and how the cost of adjusting that balanced with the other investments the applicant wants to make to the site overall like the new sidewalk, trees, landscaping, parking lot, etc. The applicant's team offered to make those "study" renderings available to the Planning Board and public as soon as possible and they can be posted publicly when available. E. Zwirko would distribute them to the Board members for review. The Board members noted that the visualizations will be very helpful of the various orientations and the various roof styles to support the request for a waiver of the shed roof. The total linear feet of frontage buildout should also be included in the final proposal to see if a waiver is needed for that requirement of 50% minimum. E. Zwirko noted that Chase Bank created a "street screen" to meet that CBDC requirement as well.

**4. Workshop Item: Preliminary Contract Zone Agreement and Minor Subdivision, Chapter 701 Article IV.V, and Minor Subdivision, Chapter 601, 251 West Main Street, Map 46 Lot 86, Julia Libby, Applicant**

The applicant is requesting a preliminary review of a Contract Zone Agreement (CZA) and Minor Subdivision to divide the existing 1.88-acre lot into three lots, not otherwise permitted in the Medium Density Residential (MDR) Zone, which has a 1-acre minimum lot size. The proposal also includes preserving the existing historic house through a historic preservation easement and the implementation of a forest management plan. This is a preliminary review, and no vote will be taken until after a site visit is held.

The applicant, Julia Libby, presented the proposal, which is substantially the same as was reviewed in March 2023. The Board discussed the proposed Forest Management Plans and Historic Preservation Agreements, and what management would entail versus incorporating a "no build zone" into the contract. E. Zwirko noted that the standards for the Forest Management Plan come from the Shoreland Zoning Ordinance, which may not be applicable here, and recommended that they be reviewed by the Town Tree Warden or a professional in forestry.

Chair Holden opened to public comment.

Nancy Gordon, 240 West Main Street.

Traffic: it is a parking lot when school is in session, commuters, bikers and walkers and school buses, and regional traffic. Driveways: How can they go onto Newell or West Main? That needs to be looked at. Impacts: Assume anything about the number of people and cars that would live there, trips per house. That needs to be revisited. Outbuildings: If they have to stay within that confine of the building envelope, is that a garage? If LD2003 is in either the iteration or small one, ADUs can be built, so then what happens to the tree area? Parking location: Who measures where you put their car? One space for each home? How many people here only have 1 car. How do you monitor that? Impact of LD2003, the Comp Plan update, and the Climate Action Plan. Not in favor for a lot of reasons and recommend that the Board follows the current zoning requirements of the comprehensive plan until we have the understanding of the updated plan and LD2003. Keep West Main St at 1 DU per acre; surrounding Newell Rd and historic building may be less than 1 acre, but the Dowdy home and those on historic lots are larger than 1 acre.

Jim Crofts, 51 Deacon Rd.

The proposal is taking on a nonconforming lot and then making it to 3 nonconforming. What will be the impact of LD2003 on this lot? Linda Connor had a survey done in 2021 that showed her line is over the Libby's and the surveyor done by Libby's is no longer certified here.

Mike Lysek, 21 Newell Rd.

Appreciate the efforts to keep the properties toward the street and protect the forest. Keep to the existing regulation, because now all is in flux due to LD2003. This may be the least of possible evils. No compromise seen on the driveways on Newell Rd. An easy solution is to have them all come off of West Main St rather than bringing all 3 together as a private road. Who will enforce the CZA? Keep building out of the woods. How many ADUs can be built right now on the lot and if it is divided, how many could be built on the lot?

Joe King, 16 Newell Rd.

Lived here for 25 years and encourage those on the site visit to park in my driveway. Work from home and see kids coming up street with no sidewalk, and poor visibility or sight distance. Safety of people walking and biking is my only point of view. Concerned for a driveway there because of sight distance obstructions.

Becky McGilp, 53 Newell Rd.

Enormous amount of feedback provided about this project. Curve of the street and so many new streets in time that she's been here. Too much development and new roads built. Increased stormwater runoff due to overdevelopment. Was raised here and back then it was under 5,000 population. Now the schools are maxed out, the town public services are maxed out, and taxes and fees have increased to keep pace with infrastructure needs. Hard to keep track of all the revisions and past reviews of the project. The Chair added that the Board will work with the Planning staff to make it easier to find the past applicants' reports for review by the public.

Ed Libby, Applicant

A site visit will illuminate the safety concerns of the dangerous conditions. Driveway concerns don't address dangerous driving culture. Driveway itself isn't a problem. Sympathize with anyone dealing with traffic on West Main St; it is a regional problem. Housing accommodates for one driveway and 1-3 homes does not generate more traffic. Another home on Rte 115 did the same thing (cleared trees, put in a driveway on Rte 115) with no opposition. Consensus from the Comprehensive Plan Community Conversation on Monday was for more housing, smaller lots, and the area to have this growth happen is where we already have the infrastructure, to stop sprawling and stop consuming open space, and many of the goals of this project are already in the current Comp Plan but the town hasn't done it. Unfortunately, Yarmouth has not been a leader in this area. We were waiting for LD 2003 but the Historic Preservation Committee has asked us to move forward with preserving this structure. There are some refinements and are willing to work with the Tree Warden and Committee on the Forest Management Plan. This proposal is an incremental difference from what is allowed right now with large lots. Looking forward to the site visit.

Nancy Gorden, 240 West Main Street.

My house was the example. Built our home on 3 acres, which is a lot different than 3 homes on 1 acre. There were brambles and trees, but when you come to the site you will see that our whole front is all trees that have been reforested.

Zoe Rockwood, 59 Deacon Rd.

Object to this project and being threatened by Ed Libby. Do feel worn out hearing this over and over again. Comp Plan in place would disallow this. State is in flux with LD2003. Foolish for a Town not to consider what the impact LD2003 would have on this community. Mistake that no traffic study being done over surrounding development. More congestion in middle of town. Why in every one of these proposals have the lot sizes changed and yet no review by an actual certified surveyor? Already living next to subdivision that didn't follow any of what they agreed to and there are no consequences for them. What's the impact to the water district? What's the cost to the town of all this development? What's the impact to traffic? Kids already have a hard time crossing Rte 115. Taxes have doubled since moved here. Magnolia Way was supposed to be affordable, but isn't. The town makes accommodations to public services and facilities for growth, but doesn't see the benefit to



the community. Loss of habitat, displacement of animals, changes to water direction due to construction impact residents.

Merrill Chapin, 233 West Main Street

Seen a lot of change in Yarmouth. Recommend that this plan pauses until the comp plan is finished. What's the public benefit really? Conservation easement seen as public benefit? No, per the Town Assessor, not unless people had access to the property. Unfair that she had to have a 1 acre lot for her structure instead of giving more (than 2.5 acre) to conservation, so it is unfair that they could. Great concerns over who will monitor the HPA. Who will monitor the impact to my drainage system from construction? Context for new houses should be West Main St. A tree inventory was not done. What is the impact of LD 2003. The houses are going to go to wealthy people. Need affordable housing. If they get permission to put two other houses on there, somehow they should be affordable.

Kerry Fairlie, 42 Newell Rd.

Same comments. Very concerned about the safety on Newell Rd. Come visit the site multiple times and see cars parked in the street that block the sight lines. Water is a concern.

Susan Gifford, 41 Newell Rd.

Agree with all the other residents. Applaud HPA, but a CZA is not needed and can still do that. FMP sounds good on paper, but has concerning language in it: "vegetation restrictions." Who will enforce that? Problematic with all CZAs to enforce the agreements and find some recourse or action. No good track record in the Town in the past. Just follow our existing zoning laws. Timing with everything in flux is premature. Make the housing affordable. Consider the impact to the neighbors.

The Chair closed public comment.

The Board discussed that the repeated calls to consider stormwater (a requirement of the Town) and street safety, and that the Forest Management Plan requires further attention. Stormwater analysis requirement, hear safety and sight view concerns. The Board suggested that the residents may want to consider addressing street safety on Newell and at Route 115, separately from this application. It would helpful to clarify the potential permutations under LD 2003.

The review by the Planning Board has a threshold set by Chapter 701 Zoning for review of contract zones in general to consider. The Forest Management Plan still needs working through, especially if they're being considered as evidence of public benefit.

Following the site visit, additional details and refinement of the application, the Board could consider making a recommendation on the CZA based on the ordinance and consistency with the current Comprehensive Plan. E. Zwirko clarified that their recommendation would then go to the Town Council and then to the Planning Board for Subdivision Review. The Town would need a complete plan set for the lots.

The Board asked about repetitive petitions if there was a denial. There is a time period for repetitive submittals, but a substantial difference from past submissions needs to be shown to be reviewed again.

The Board announced a Site Visit on October 16 at 5 PM.

**ADJOURNMENT**

With no objection, the meeting adjourned at 10:20 PM.

Respectfully submitted:

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Julie Dubovsky, Assistant Planner