



## PLANNING BOARD REPORT

### YARMOUTH, MAINE

Request for Contract Zone Agreement and Concept Subdivision Review

Julia Lewis, Applicant

251 West Main Street; Map 46, Lot 86

Prepared by: Erin Zwirko, Director of Planning & Development

Report Date: March 16, 2023; Planning Board Meeting Date: March 22, 2023

#### I. Introduction and Project Description

Julia Lewis, the owner of the property at 251 West Main Street, has applied for a Contract Zone Agreement (CZA) to enable the division of the lot which is approximately 1.88 acres. In the Medium Density Residential (MDR) zone where this property is located, the minimum lot size is one acre. The current proposal is to create 3 lots that vary in size but are all less than one acre (43,560 square feet). The applicant proposes to create one smaller lot (approximately 0.20 acres) to retain the existing structure on the property. The other two lots would be approximately 0.80 acres each. The applicant proposes to utilize a historic preservation easement to protect the existing structure.

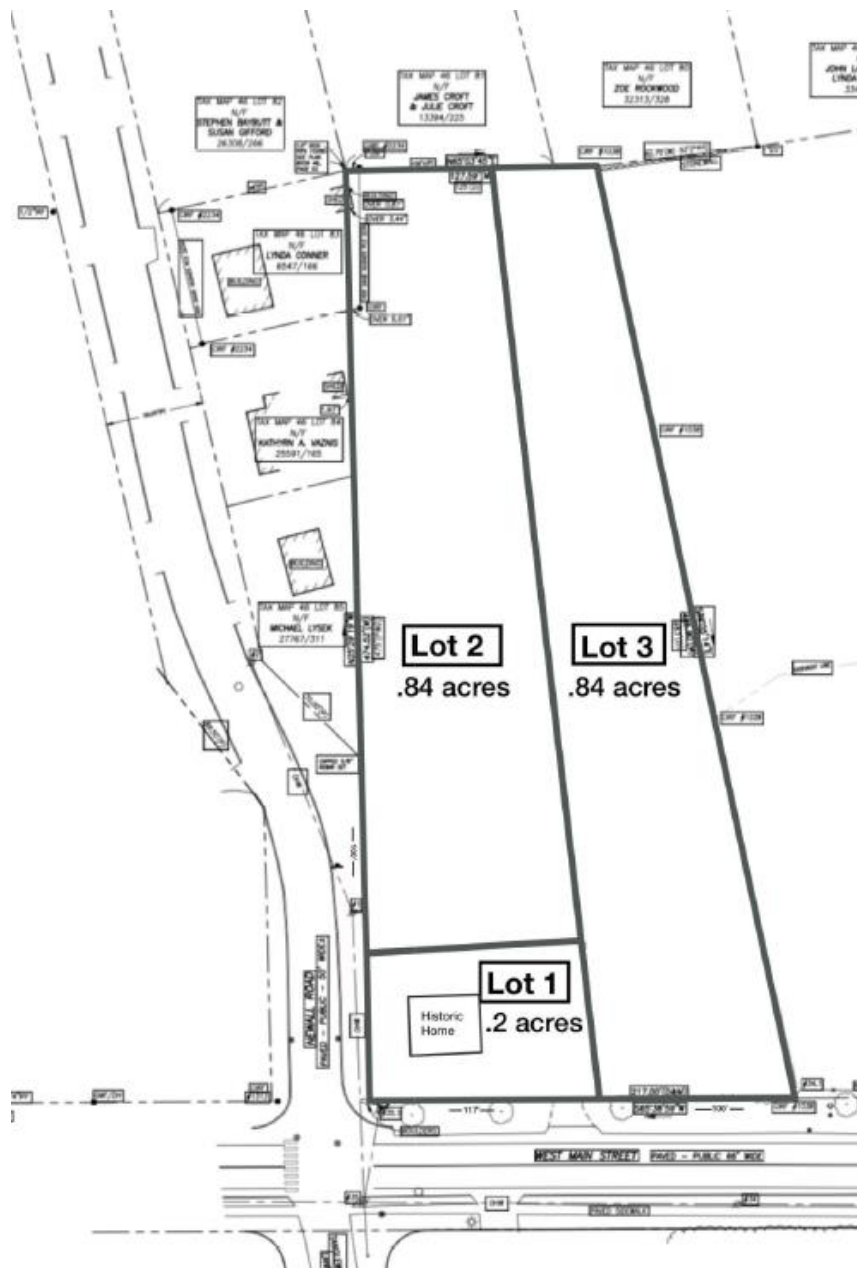


Aerial Vicinity of 251 West Main Street

The applicant previously appeared at the Planning Board regarding this property. In December 2020, the applicant requested permission to demolish the existing single-family home at 251 West Main Street. The Planning Board determined that the structure is a Building of Value worthy of preservation and applied a 180-day demolition delay on the structure pursuant to Chapter 701, Article IX. During the delay period, an alternative to demolition is required to be sought, among other efforts to document the structure, although no alternatives were identified and the structure still stands. The delay period expired on June 7, 2021, and the applicant may demolish the structure at any time with the receipt of a demolition permit.

Prior to the expiration of the delay period, the applicant advanced an 8-lot subdivision concept as an alternative to the demolition of the structure, which was discussed at the Planning Board meeting on May 26, 2021. The Planning Board did not express support for the 8-lot concept as presented. The applicant returned to the Planning Board on October 13, 2021, to present a concept for a three-lot subdivision, where much like the current concept, proposed to protect the existing structure through a historic preservation easement. The Planning Board appreciated the evolution of the project and the smaller scope, but still expressed concern with the proposal and recommended consideration of a two-lot subdivision.

The current three-lot concept is being reviewed on March 22, 2023. Following the concept review, but before the proposal receives final action on the CZA from Town Council, the Planning Board must complete the preliminary subdivision review per Chapter 601 of the Town Ordinances if the Board supports the CZA. Once a preliminary subdivision application is received, the CZA and preliminary subdivision plan will be scheduled for a public hearing on the preliminary plan and a recommendation to the Town Council on the proposed CZA. At that time, a legal agreement may be drafted with appropriate terms and conditions, and all materials would be forwarded to the Town Council. Should the Town Council also support the proposal and vote affirmatively, the Planning Board would then complete the final subdivision review.



Proposed Concept Plan for 3-Lot Subdivision



The applicant notes that there are three main reasons why she returns to the Planning Board with a three-lot concept and historic preservation easement:

- In August 2021, the Town adopted Chapter 701, Article X, Historic Preservation Advisory Ordinance;
- The adoption of the Historic Preservation Advisory Ordinance created the Historic Preservation Committee, which started meeting regularly in April 2022 to conduct the required review of projects within the three local historic districts, provide advisory recommendations to property owners, and provide recommendations to the Planning Board on Chapter 701, Article IX, Historic Building Alterations and Demolitions; and
- Renewed interest in working to preserve the existing home at 251 West Main Street.

The following photos were taken in 2021, but the property remains generally the same today:



251 West Main Street; Existing Structure was subject to a Demolition Delay per Chapter 701, Article IX



Rear of 251 West Main Street; Tree line indicates portion of property that is undeveloped and unmaintained

<b><i>Applicant's Proposal</i></b>	<b><i>Applicable Standards</i></b>
Three Lot Residential Subdivision on 1.88-acre MDR Lot	MDR Contract Zone – Recommendation to Town Council
Three Lots	Concept Subdivision Review Minor Subdivision, Preliminary and Final

**Uses in Vicinity:** The surrounding neighborhood consists primarily of single-family homes on West Main Street and Newell Road. With the exception of lots on West Main Street to the east of the subject property, the lot sizes on Newell Road, Deacon Road, Tanglewood Lane, and other streets in the vicinity range from 0.15 acres to 0.66 acres, less than the current minimum lot size for the MDR. The adjacent property at 233 West Main Street is zoned CD-4.

**Public Comment:** 66 notices were sent to property owners within 500 feet of the project site. As of the writing of this report, we have received six letters indicating opposition. It is acknowledged that those who have written request additional information regarding the future driveways and the location of houses. However, being simply a concept plan for discussion purposes, and acknowledging that more work is needed before the Planning Board would consider a Preliminary Subdivision Plan, it is reasonable that more detailed information was not provided at this time. It is also acknowledged that subdivision does not require specific house locations or elevations, only the proposed lot lines with dimensions, lot area, lot numbers, zoning setback lines and suggested locations of buildings.

## **II. Conditional or Contract Zoning (Ordinance Provisions)**

### ***Chapter 701, Article IV.V: (Excerpt, full text of Ch. 701, Article IV.V)***

*Authorization for conditional or contract zoning recognizes that circumstances existing when adherence to uniform design or performance criteria can preclude creative, safe and sensible land uses and development which would otherwise advance the goals of the Comprehensive Plan and the public health, safety and general welfare.*

*Conditional or Contract Zoning is a discretionary legislative process reviewed on a case-by-case basis. As such, contract or conditional Zoning decisions are particular to the circumstance of each lot or structure applicable to review, does not establish nor rely upon precedence, and is available only when the Town Council determines it advances the public good.*

1. *Conditional or Contract Zoning, as defined by this Ordinance, is authorized for zoning map changes when, in order to further the public health, safety and/or general welfare, the Town Council finds it necessary to impose certain conditions or restrictions upon the applicant's use of the land, which conditions or restriction are not imposed upon other similarly zoned properties.*
  - a. *Alternatively, the Town Council may find it necessary or desirable to waive or modify one or more standard conditions applicable to a particular lot, Building, or use of a parcel within a district, and impose special conditions or restrictions not imposed upon other properties within the zone.*

*In such circumstances the provisions and authorities of contract or conditional zoning Article IV.V may apply even when the contract or conditional rezoning modifies applicable standards within a zone (as applies to the subject property only) and does not change the zoning district or designation itself. Such alternative application shall not be authorized:*

- (1) *To create or authorize a use not permitted within the zoning district.*
- (2) *Except when all other conditions, procedures, and requirements of this Section are met.*
- (3) *Except when the general purposes and goals of the district, as defined by the Comprehensive Plan, are advanced by such conditional or contract zoning.*



(4) *To be applied in the Village I or Village II District unless the applicant submits, in addition to the requirements of Article IV.V.8., Building plans and profiles of sufficient detail to allow a determination as to appropriateness of exterior architectural design features, construction materials, landscaping and aesthetic visual impacts.*

2. *Rezoning under this subsection must be consistent with the Comprehensive Plan for the Town of Yarmouth and must establish rezoned areas which are consistent with the existing and permitted uses within the original zone. The term "consistent" as used in this subsection shall mean "not contradictory or incompatible with".*
3. *All requests for Conditional or Contract Zoning must be accompanied by a site plan containing the information required by Article IV.V.7 of this Section. Requests for Conditional or Contract Zoning shall be filed initially with the Planning Board.*

### **III. Proposed Contract Zone Agreement**

As described in Article IV.V of Chapter 701, the use of a CZA acknowledges that strict compliance with the Zoning Ordinance may preclude *"creative, safe and sensible land uses and development which would otherwise advance the goals of the Comprehensive Plan and the public health, safety and general welfare."* The CZA will contain provisions to ensure that the development, if approved, will mitigate any project impacts, and improve the immediate area and its infrastructure and results in *public good*. To demonstrate *public good*, the Planning Board often considers whether positive impacts from the proposed development will accrue to the larger community. These requirements would become part of the Planning Board recommendation to the Town Council.

In 2021, the Town Council expressed that it was not inclined to approve CZAs, although the current Town Council has not opined on that topic as there have been no requests for a CZA since May 2021. At that time, the Town Council denied a CZA for which the public good was the creation of affordable housing opportunities even though the 2010 Comprehensive Plan explicitly indicates that contract zoning should be used to create affordable housing opportunities. A second CZA, which also supported the concept of affordable housing, was withdrawn from consideration by the Town Council following the denial of the other application.

The preservation of the existing structure at 251 West Main Street and a conservation easement, if the appropriate deed restrictions are included, may have positive impacts on the larger community, and is within the public good.

### **IV. Discussion with Historic Preservation Committee**

The applicant discussed the property with the Historic Preservation Committee on two occasions: November 28, 2022, and February 27, 2023. In November, the Committee and the applicant discussed that the house retains its integrity, including a remarkable degree of surviving interior integrity, and is deemed worthy of preservation, reviewed the applicant's goals for the property, and the parties simply agreed to continue the conversation.

In February, the applicant returned to the Committee to discuss the submittal under consideration by the Planning Board. The Historic Preservation Committee has forwarded a letter of support that describes the discussion with the applicant regarding the proposal. The Committee supports the preservation of the existing structure but recommends that the lot on which the structure sits have more frontage on West Main Street and be slightly larger to accommodate additions to the home in order to make historic preservation possible and support more modern living arrangements. No discussion of the location of driveways occurred. Specifically, the Committee writes,

*"Committee members suggested expanding Lot 1 (the historic Cape corner lot) by (1) increasing its frontage on West Main St., leaving frontage on West Main St for Lot 3 with room for an access road for a house to be built deeper into lot 3, and also (2) providing more depth to lot 1 by extending its rear line approximately 30 feet northerly into Lot 2... The support of the Committee is predicated upon appropriate historic preservation covenants being placed on Lot 1. The Committee felt that the historic preservation aspect of the proposal could supply the required public benefit for a Contract Zone Agreement, implementing the 2010 Comprehensive Plan re preservation and the provisions of our*

The Planning Board may want to discuss with the applicant whether the applicant would be agreeable to altering Lot 1 per the Committee’s recommendation.

## **V. Comprehensive Plan Analysis**

### **Applicant’s Response:**

*This proposal is consistent with the 2010 Comp Plan in that it preserves a historic building that has been identified by the Town as a building of historic value. In fact, it is one of the oldest homes in Yarmouth and is only one of a handful of 18th century homes remaining in Yarmouth. Greg Paxton, current Chair of the HPC and then Director of Maine Preservation, described it as having a “remarkable number of surviving original features”. The proposal also provides housing in the Town’s designated growth area. Preserving Yarmouth’s historic structures and providing housing in our designated growth area also advances the public good.*

### **Planning Director Comment:**

The Comprehensive Plan, prepared in 2010, had a strong focus on historic preservation and recommended an educational and advisory approach to encouraging historic preservation. Ultimately in August 2021, the Town did adopt the Historic Preservation Advisory Ordinance as noted above in the introduction as well as amendments to the Historic Building Alterations and Demolitions Ordinance. These regulations were contemplated in the Comprehensive Plan and the Town has made strides in acting on the actions outlined in the Comprehensive Plan for historic preservation. However, the property in question would never be subject to the Advisory Ordinance due to its location outside of the Upper Village Historic District. In June 2021, any oversight that the Town had in regards to historic preservation ran out, when the demolition delay period expired.

Being that the structure was identified as a Building of Value, and as such, there is value in the preservation of the structure at 251 West Main Street, and the Comprehensive Plan indicates that CZAs are “[a] voluntary, non-regulatory tool shall continue to be an option for preservation.” (page 29) especially where no other protections are applicable. The Planning Board may want to determine whether the historic preservation easement and the protection of a structure previously determined to be a Building of Value would provide the public benefit that is contemplated by the Zoning Ordinance. Evidence of an easement will need to be embodied in the CZA. Working with Maine Preservation, or another third party, might ensure that the easement is upheld. The Historic Preservation Committee would not be the appropriate entity to uphold the easement, although the Committee would have a role in ensuring that any preservation language in the easement is appropriate, alongside the Town Council and the Town staff.

It is acknowledged that an update to the Comprehensive Plan kicked off in January 2023, and is planned to be an 18-month process to prepare the updated Comprehensive Plan for adoption. The current Comprehensive Plan remains valid until such time that the Town adopts a new Comprehensive Plan. The 2010 Comprehensive Plan notes on page 18 that the Town responded to changes in development patterns in the 1980s by gradually increasing minimum lots sizes rendering a majority of MDR lots nonconforming. The increase to 1 acre for a single-family home was discussed at the January 15, 1987, Town Council meeting where the Council adopted a resolution calling for a study of the MDR District due to the rapid development of the MDR District (likely due to the presence of the public sewer as acknowledged by the 1984 Long Range Planning Committee Report) and the resulting loss of open space and village atmosphere are inconsistent with the goals of open space preservation, traffic management, and the prevention of overcrowding. The Town Council directed the Planning Board to revise the MDR requirements in order to preserve the present quality of life for the residents of the Town, protect and preserve essential natural resources and to preserve and protect the public’s health, safety and welfare. Ultimately on March 12, 1987, the Town Council adopted the present 1-acre minimum lot size. The lot sizes surrounding 251 West Main Street reflect that history in that the older lots are typically less than an acre while more recent subdivisions comply with the current one acre minimum.

The 2010 Plan calls for reducing the MDR minimum lot size to allow for infill housing development and to return many of the previously conforming lots to conforming status. In 2018, the minimum lot area was revisited when zoning

adjustments to the residential areas surrounding the Village were contemplated but were ultimately tabled by the Town Council. While not explicitly noted by the applicant, the proposal is consistent with other goals of the Comprehensive Plan around housing while also achieving historic preservation goals.

## **VI. Concept Development Review – Review Staff Comments**

Due to the scope of the proposal, it will require minor subdivision approval, and before Town Council can take final action on the proposal, the Planning Board must approve the Preliminary Subdivision Plan. The applicant has not provided any detailed information about the conformance with the relevant review standards of Yarmouth's Subdivision Ordinance and applicable regulations. Formal Preliminary Subdivision Approval under Chapter 601, Subdivision Ordinance, requires a more detailed plan than concept subdivision review. The review standards are not included here as there is insufficient information to assess the standards.

We have received the following comments from Town and Relevant Staff and Committees (comments from the Historic Preservation Committee are noted elsewhere):

**Town Engineer, Steven Johnson:** In addition to meeting the standards of the Chapter 601 and other applicable ordinances, the Town Engineer encourages the applicant to proactively address how stormwater will be managed through grading as subdivision plans are prepared. Additionally, the Town Engineer has indicated that a stormwater analysis will be required. Other technical considerations include ensuring that the requisite sight distances are accommodated pending the location of any driveway and that the sewer infrastructure is likely limited to private force mains.

**Public Works Director, Erik Street:** West Main Street is under a roadway moratorium until 2025, and moratorium restoration standards would be applied to any entrance and street opening permits.

**Planning Director:** Additional details are necessary to fully assess the proposal under Chapter 601. In order to highlight the natural and historic nature of the existing structure and the streetscape that it is located within, altering the lot layout per the Historic Preservation Committee's recommendation is appropriate. The applicant should also think through where driveway access is best suited per the comments of the Town Engineer and with the goal to minimize the number of curb cuts.

As noted in the introduction, the Planning Board applied a 180-day delay on the demolition of the structure, which expired on June 7, 2021. Although the applicant has not indicated that the structure would be demolished, should the applicant determine that demolition of the existing structure is necessary, the Department of Planning & Development would appreciate the opportunity to obtain photographic and other documentation of the structure due to the historic nature.

**Tree Advisory Committee:** The Committee recommends that the applicant submit a detailed survey of the existing tree canopy and a plan for conservation of that canopy. This documentation could show proposed building pockets which would guarantee that the suggested small lots are able to accommodate trees, utilities and a building with adequate space for each component.

Previously, in 2021, the Yarmouth Water District Superintendent also noted that the District has adequate capacity to support the proposal. The applicant would need to submit a proposed utility plan should the concept advance to subdivision review.

## **VII. Recommendation**

The history of review regarding the use of a CZA at 251 West Main Street is acknowledged, and there may be renewed interest in pursuing this proposal with conditional support from the Historic Preservation Committee. Key to the Committee's support is appropriate historic preservation covenants being placed on Lot and altering the layout of the proposed lots. Should the Planning Board be interested in hearing more from the applicant, it would be appropriate to direct the applicant to prepare a Preliminary Subdivision Plan that meets all of the requirements of Chapter 601, as well



as provide draft preservation language that has been vetted by the Committee and a third-party that has agreed to hold the easement.

No motions are proposed at this time. Only once the Planning Board receives a subdivision plan that meets the requirements of Chapter 601, Subdivision, could a motion be contemplated.

**VIII. Attachments**

1. Memo from Steve Johnson, Town Engineer, 3/6/23
2. Memo from Erik Street, Director of Public Works, 3/9/23
3. Memo from the Tree Advisory Committee, 3/10/23
4. Memo from the Historic Preservation Committee, 2/27/23
5. Public Comment – Jessica Raimy, 3/7/23
6. Public Comment – Susan Gifford, 3/9/23
7. Public Comment – Michael Lysek, 3/10/23
8. Public Comment – Kathryn Vaznis, 3/12/23
9. Public Comment – Jim and Julie Crofts, 3/14/23
10. Public Comment – Nancy Gorden, 3/14/23
11. Information on the Samuel True House attached to the HPC Agenda from 11/28/22

## Memo

**To:** Erin Zwirko, AICP, Director of Planning and Development  
**From:** Steven S. Johnson, P.E., Town Engineer  
**CC:** Erik Street, Nick Ciarimboli, Chris Cline, Karen Stover, Wendy Simmons  
**Date:** March 6, 2023  
**Re:** Conceptual Sketch Plan for Minor Subdivision Application and Contract Zone for 251 West Main Street

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Erin:

I have reviewed the application from Julia Libby of 251 West Main LLC for the parcel located at 251 West Main Street dated February 8, 2023. The applicant is proposing to develop a three (3) lot residential subdivision accessed from both Newell Road and West Main Street.

I have the following technical comments on the application:

### Conceptual Plan Review Items:

1. General Topography: The site has an existing residential unit fronting on West Main Street that has lawn area adjacent to the structure with the northerly portion of the lot being undeveloped and wooded. The wooded area slopes moderately from south to north. The applicant did not submit a full-sized boundary survey that includes the required topographic information, but it does appear the site can be reasonably developed as proposed although stormwater runoff and grading may require some forethought.
2. General Street and lot layout: The proposed lot layout allows access and frontage from existing public ways and is generally acceptable from a technical perspective.
3. Location of flood plains: The project site is not located within the 100-year flood plain.
4. Location of zoning district boundaries: The project is located fully in the Medium Density Residential (MDR) district and will require a contract zone agreement as proposed.
5. Rights, Title: In future submissions, the applicant must provide evidence of right, title, and interest to the property.
6. Solid Waste: The Applicant is proposing residential lots and as such each lot owner is eligible to use the Town's transfer station for solid waste disposal.
7. Water: The Applicant must provide evidence from the Yarmouth Water District (District) that the system has the capacity to serve the new subdivision for domestic water service.
8. Traffic/Parking: The applicant will not be required to provide a full traffic impact analysis for the project, however there may be sight distance issues with the proposed drive entrances that should be addressed as part of future submissions.
9. Sewers:
  - a. The project will be required to connect to the Town sewer system. The system must meet Chapter 304 Sewerage Ordinance requirements as well as the Town's technical standards for sewer infrastructure. Unless the applicant can obtain an easement for a gravity sewer services from the abutters to the north, the new homes will have to convey sewage to either West Main Street or

Newell Street via private force main type services. I would be happy to discuss the technical aspects of providing sewer with the two undeveloped lots with the developer.

- i. Any new sewer services connected to the Town system shall connect per Yarmouth Standards;
- ii. It should be noted that West Main Street is under moratorium for pavement cutting and pavement disturbance will require a moratorium repair which is full pavement restoration curb to curb twenty feet either side of the cut.
- b. In general, the sewer services are separated laterally from a water service by at least ten (10) feet.
- c. A sewer connection permit and fee will be required for reach lot before individual building permits are issued by the Town.

10. Storm Drains:

- a. All storm drainage shall meet the requirements of Yarmouth's design standards for storm drainage.
- b. The applicant shall provide a clear strategy to limit impacts for stormwater runoff to the abutting lots to the north.

11. Drainage, Stormwater Management:

- a. The applicant will be required to provide a full stormwater analysis for the project. The proposed house lots will convey runoff to the adjacent properties on the north. As such, the applicant will be required to provide runoff detention to limit the runoff to the pre-development rate for the proposed new house lot impervious areas. It is strongly recommended that the applicant consider the implementation of Low Impact Development (LID) stormwater management for the house lots to mitigate runoff volume increases. In any event, the runoff from all portions of the development should be captured for the building roofs, driveways, and lawn areas. Additionally, each lot deed shall contain deed restrictions to ensure any LID BMP's are operated and maintained in perpetuity.
- b. The Applicant must develop and submit an acceptable inspection, maintenance, and housekeeping plan for use in managing the permanent stormwater BMPs for each new lot.

12. Erosion and Sediment Control: The Applicant shall meet all requirements of Chapter 500 Stormwater requirements and MDEP Erosion and Sedimentation Control (ESC) measures. During construction erosion and sedimentation control, Best Management Practices (BMP's) shall be installed prior to construction activities and shall be maintained by the contractor until the permanent vegetation is in place. It is also critical that the contractor performing construction inspect, maintain and repair all ESC BMP's prior to and following rain storms to ensure the effectiveness of the BMP's. Additionally, the project may be subject to Site Law requirements as well as the requirements of the Maine Construction General Permit (MCGP) during construction.

13. Soils: The Applicant must submit evidence that the soils are suitable for the project as proposed.

14. Aesthetic, Cultural, and natural area impacts: The applicant must show the project will not have an undue negative impact on habitat, historic sites, or other aesthetics of the site.

15. Lighting: A separate lighting plan and photometric plan will not be required.

16. Waivers: No waivers have been requested at this time.

17. Off-site Improvements: No off-site improvements have been proposed by the applicant.

I would be pleased to review any other aspect of the application that you or the Planning Board may decide.




Town of Yarmouth ME

Director of Public Works

## MEMORANDUM

**To:** Erin Zwirko -AICP, LEED AP - Director of Planning & Development

**From:** Erik S. Street, Director of Public Works 

**CC:** Steve Johnson, PE, Town Engineer, Wendy Simmons, Karen Stover

**Date:** 3/9/23

**Re:** 251 West Elm Street – Lot Split

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After review, I have no concerns about the proposed split. My only comments are West Main Street is under moratorium until 2025 so the new lot on West Main may not be able to connect sewer / water / power / etc. until moratorium has expired.

If you have any questions, please let me know.

## Yarmouth Tree Advisory Committee

TO: Planning Board Members  
Erin Zwirko, Planning Director

COPY: Karyn MacNeill, Scott Couture, David Craig

DATE: March 10, 2023

FROM: Rebecca Rundquist, Chair  
Michael Brandimarte, Aaron Kaufman, Susan Prescott, Stephen Ryan, Lisa Small,  
Lisa Wilson

RE: Application for review, 251 West Main

The Yarmouth Tree Advisory Committee has reviewed the application for your meeting on 3/22/23 and has the following comments.

This project shows very little detail aside from the desire to split the lot into three small lots, one of which would include the existing historic house.

The plan to divide and build on the two new lots that would be created here will precipitate a significant loss of tree canopy. As a community that has stated concerns about the impacts of a changing climate we should be mindful of protecting this type of urban forest. This stand of trees also provides important habitat for wildlife.

Developing this land requires a CZA, altering the zoning to accommodate development. This is in direct conflict with valuing trees and their contribution to our environment. Before any consideration of this proposal moves forward, the applicant should be required to submit a detailed survey of the existing tree canopy and a plan for conservation of that canopy. This documentation could show proposed building pockets which would guarantee that the suggested small lots are able to accommodate trees, utilities and a building with adequate space for each component.

**Yarmouth Planning Board  
C/o Erin Zwirko, Director, Planning and Development**

**Re; Concept Plan, Minor Subdivision and Request for Contract Zone Agreement, re 251. West Main St.**

**Dear Madam Chair and Planning Board Members:**

The following is an extract from the Minutes of the Historic Preservation Committee meeting of February 27, 2023, where the Committee gave informal review of and commentary on the above proposal.

**“A. 251 West Main St.** Julia Libby spoke to her plan to present the Planning Board with a proposal for dividing her 251 West Main historic property, via a Contract Zone Agreement and Minor Subdivision, into three lots, the historic cape in one lot on the corner of West Main and Newell, and two relatively narrow but deep adjoining lots, fronting on West Main St. The historic cape would be sold subject to preservation covenants, which would provide public benefit, and limiting the remaining land to two house lots larger than adjoining lots to the north and west seemed reasonable. It was suggested that presenting a larger lot 1 with more frontage on West Main for the old cape, providing more room to accommodate a future ell, garage or barn, could be beneficial. The question of whether there should be one or two driveways for the new vacant lots was left open.

On motion made and seconded, it was voted 5-0 to express support for a modified proposal. Julia would like to present at the March 22, 2023 Planning Board meeting.”

**The discussion included the observation that the size of the lot with the Cape is comparable to the lots adjoining it on Newell Street, so that this subdivided property would be in context. The two vacant lots would be larger than any on Newell Street and most of the lots west of the property on the north side of West Main Street. However, to bring it into further compliance with its context, Committee members suggested expanding Lot 1 (the historic Cape corner lot) by (1) increasing its frontage on West Main St., leaving frontage on West Main St. for Lot 3 with room for an access road for a house to be built deeper into lot 3, and also (2) providing more depth to lot 1 by extending its rear line approximately 30 feet northerly into Lot 2. This would make room for possible expansion of the historic Cape, allowing preservation of the historic portion plus room for more modern living amenities in an ell or wing, making for a more saleable property. This could also allow future improvements such as the addition of a barn as depicted in a historic photograph of the house, or a compatible garage. The possibility of affordable housing in the historic unit was also discussed. The support of the Committee is predicated upon appropriate historic preservation covenants being placed on Lot 1. The Committee felt that the historic preservation aspect of the proposal could supply the required public benefit for a Contract Zone Agreement, implementing the 2010 Comprehensive Plan re preservation and the provisions of our Historic Preservation Ordinance, Ch. 701, Art. X.**

**Respectfully submitted,  
Edward Ashley, Recording Secretary  
Historic Preservation Committee**



## Attachment 5

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**To:** [Wendy Simmons](#)  
**Subject:** 251 West Main St Project Proposal (2023)  
**Date:** Tuesday, March 7, 2023 1:03:24 PM

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Hello Erin,

I am writing today to find out more about the 251 W Main St current application and to share my thoughts. I am curious as to where the driveway for the proposed Lot 2 would be located? I have concerns about a possible driveway being located at the top of Newell Rd on the blind turn that exists there. 1. I think any additional congestion on that part of the road so close to the turn off from W Main may be a hazard and 2. from experience living in the Newell neighborhood for 16 yrs., it is common for any guests or workers at properties on Newell to park on the road in front of a residence. A driveway on that blind turn that would encourage on-street parking in that area would most certainly be a hazard to traffic and pedestrians. For the past several months, I have actually been thinking that there should be no parking allowed on that stretch of Newell above the current driveway that is closest to West Main St as the road is quite narrow going in and out of Newell Rd from West Main St and visibility on that stretch is difficult with the bend that exists in that part of the road. Many times there have been workers parked there for projects taking place in nearby neighborhoods and it's very difficult to maneuver around parked vehicles in that particular area. There are also many pedestrians walking in and out of the Newell neighborhood at that intersection where our newly updated West Main crosswalk resides and this increases the hazards of having parked vehicles in that area.

I am also wondering if there is any plan to conserve trees on the 251 West Main property as had been proposed in the last proposal for this property in 2021? I think that was a positive proposal for the Newell neighborhood and the neighbors of the 251 Main St property due to aesthetics and groundwater distribution.

Additionally, if it was proposed that the property only be split into two rather than three buildable lots, the two lots could be nearly one acre each and be quite close to the minimum lot size requirement of the MDR.

Thank you,  
Jessica Raimy

## Attachment 6

March 9, 2023

Re: 251 West Main Street

Dear Members of the Yarmouth Planning Board and Ms. Erin Zwirko,

I am writing in response to a notification I received in the mail on March 4th, 2023 regarding a request for a concept review of a contract zone agreement and minor subdivision for the above-referenced property. This request is scheduled to be considered at the upcoming March 22nd Planning Board meeting in Yarmouth, ME. As some of you on the Planning Board may recall, this property, which is owned by 251 West Main LLC, has had several requests before the Planning Board since 2020. The most recent proposal is similar to the last one presented in October 2021. I am opposed to this current proposal for many reasons, which I've outlined below.

Although I am pleased to see that the current proposal includes preserving the existing historic home by proposing an historic preservation easement, there is no detail about this easement. Furthermore, the applicant's claim that the project description includes an "advancement of public good" is not backed up with any evidence. If seeking an historic preservation designation were all that were being requested, then perhaps this proposal would have more merit, but dividing it into three lots and reducing the historic home to the smallest lot (.2 acres) while the other two lots would be significantly larger (.84 acres each) does not seem to be prioritizing the historic nature of the property. Furthermore, the Planning Board has already made it clear that "preserving a historic building is a private benefit" (October 13, 2021 Planning Board Meeting Minutes). How does carving up the lot into three parcels benefit the public good? It benefits the current private landowner's wallet more than the public's good. In the October 13, 2022 meeting, the Planning Board made the suggestion to the applicant of "considering 2 lots and not 3 and doing more for the public's benefit." This current application does not seem to follow this suggestion and still contains three lots and no public benefit.

It is curious that this property had been listed on the realtor.com website for over 200 days, but was recently removed from the market listing, soon after this proposal appeared on the agenda (see attached). The real estate listing was for a home to be built on the property (in addition to the current historic home), and it was priced at \$2.5 million dollars, which included 6 beds/ 5 baths/5,257 square feet (see attached). The property was listed by Edward Libby of RealMaine, which also mentioned that the "broker has ownership interest" in the property. Indeed, the above-referenced property is technically owned by an LLC: 251 West Main LLC, and Edward Libby is listed on the Annual Report for 2022 filed with the Secretary of State (see attached). Mr. Libby is no stranger to this Planning Board and has been before it for numerous requests for Contract Zone Agreements (CZAs) or comments on Accessory Dwelling Units (ADUs) on other properties in this town. To my knowledge, this property has not been divided, and this monstrous home is certainly not an Accessory Dwelling Unit, and there is no mention of preserving the historic home. This listing makes this current application for a CZA and historic preservation seem disingenuous, which is perhaps why it was recently removed. And it is curious that Julia Libby, his daughter, is the applicant for this concept review, not Mr. Libby.

It is important to note that there is a discrepancy in terms of the acreage that has been referenced for this property in a variety of documents, which suggests that boundary lines are in dispute. For example the following documents list different acreage amounts:



## 6.1

- The Town of Yarmouth assessment database lists the property as 1.79 acres.
- Previous contract zone applications listed the property as 1.79 acres, but this recent application lists it as 1.88 acres.
- An earlier application for a contract zone and minor subdivision (October 2021) listed the original home as .2 acres and the two additional lots as .83 and .84, but this application lists the additional lots as .84 acres each with the original home still at .2 acres.
- The Cumberland County registry of deeds shows a deed for 251 West Main LLC property as 1.86 acres
- The recent real estate listing for an additional multi-million dollar home referred to the lot as 1.9 acres in size.

So, which is the actual size of the property? And how has this property grown in size? Land surveys do not always agree, and the inconsistencies in lot size noted on these various documents is problematic and raises concerns about the legitimacy of the claim in lot size. Recently, the property owner posted "No Trespassing" signs near the border of the property, but the boundary lines could be disputed. I would think that these property lines and acreage would need to be clarified before any consideration of a contract zone agreement is made, let alone posting signs along a disputed border.

The applicant's claim that the proposal is consistent with the town's Comprehensive Plan is problematic in that it does not provide any evidence of how it is supported by the Comprehensive Plan, other than preserving the historic home on the property. The town and its residents have voiced concerns that the Comprehensive Plan is outdated, contradictory, and unclear, and efforts have been underway to do some visioning to help define what our residents would like to see Yarmouth become in the future (See Community Engagement Summary and Draft Vision Statement). This is still a work in progress, so it doesn't make sense to rely upon a plan that will soon be obsolete. There have also been concerns around the pursuit of so many Contract Zone Agreements because approval of these CZAs risks making the exception become the norm. Zoning rules are in place for a reason. Let's respect these until our community decides (not a small group on the Planning Board) whether altering them is necessary. The Town Council has also made it clear that approval of CZAs at this time are not supported by the Council. Therefore, it would seem puzzling as to why the Planning Board would even consider this proposal at this time and not respect the Medium Density Residential (MDR) zone of this area that requires a 1 acre minimum to build.

Additional concerns I have are about the safety of putting in a driveway off of Newell Road. Residents have voiced concerns about this in the past, especially since there are no sidewalks on Newell Road and the proposed driveway is near the top of a busy intersection. This road is where school children, pedestrians, and cyclists frequent in addition to vehicular traffic and cars parked along the road in this congested Newell Road neighborhood. We don't need more congestion near the top of this hill, which has a curve and poor visibility. Adding another entrance near the top of Newell Road is unsafe and unnecessary when there is already access to the property on West Main Street. And in a previous meeting, the Planning Board also acknowledged that it "[u]nderstands safety concerns around the driveway onto Newell Rd" (October 13, 2021 Planning Board Meeting Minutes).

There is not any detail about how this proposed minor subdivision meets the required subdivision ordinance under Chapter 601. This was also a shortcoming that was noted in a similar application considered in October 2021. The property is owned by 251 West Main LLC,



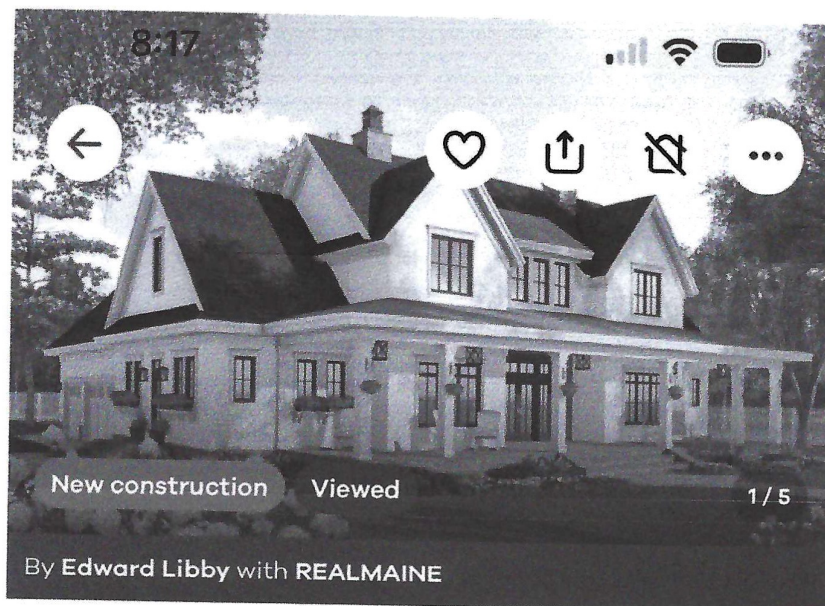
and it is not clear how any terms of a Contract Zone Agreement would be enforced, should the ownership change hands and any concerns arise regarding violation of the CZA.

I would like to see not only the historic home preserved but also the beautiful woods and natural surrounding landscape on this property. Building additional homes on this property would negatively impact the abutters. Those of us on the downward slope behind and abutting this property have enjoyed the woods, wildlife, and peace that these woods provide. Preserving trees and undeveloped land is something that residents have expressed preference for in this town. As the Planning Board report from October 2021 notes, "the neighborhood has clearly expressed their desire for the undeveloped and unmaintained nature of the lot to remain. If the Planning Board is not inclined to continue entertaining proposals for this property, it may be appropriate for the Planning Board to be very clear on that point" (Planning Board Report October 2021). Preserving the undeveloped portion of the land is also preferable because of the risk of run-off, erosion, noise pollution, and air pollution that further developing this property would create. It is unnecessary and the detriment to the community outweighs any public good.

The October 2021 Planning Board's report clarifies that as described in Article IV.V of Chapter 701, "[t]he CZA will contain provisions to ensure that the development, if approved, will mitigate any project impacts, and improve the immediate area and its infrastructure and results in public good. To demonstrate public good, the Planning Board often considers whether positive impacts from the proposed development will accrue to the larger community. These requirements would become part of the Planning Board recommendation to the Town Council" (Planning Board Report October 2021). This report suggests that any CZA will "advance the goals of the Comprehensive Plan" and will ensure it "results in public good." This proposal as presented does not include enough information to ensure that these two major criteria will be met. In addition, it lacks detail around the historic preservation easement and the minor subdivision. It also relies on an outdated Comprehensive Plan. CZAs are problematic because they end up pitting neighbor against neighbor with no recourse to address problems or concerns that arise when the terms of the contract are violated. Additional concerns around safety, loss of undeveloped land, loss of habitat for wildlife, loss of peace and increased risk to soil erosion, pollution, health, and enjoyment of land – in short, impact on neighbors – also do not warrant approving a CZA or minor subdivision for this property. I urge this Planning Board to stop entertaining requests for CZAs and put a moratorium on all CZAs until the town updates its plan and makes any changes, if needed, to zoning. In the meantime, the current property owner could simply restore the historic home and surrounding land and stop trying to carve up the property for financial gain.

Thank you for your thoughtful consideration of my comments.

Susan Gifford  
41 Newell Rd.



Exterior (2)



Pool (1)



Other (1)

● For Sale

# \$2,485,000

Est. \$13,802/mo

6 bed · 5 bath · 5,257 sqft · 1.9 acres lot

251 W Main St, Yarmouth, ME 04096



**Single Family**

Property type



**2022**

Year built



**3 cars**

Garage



**200 days**

Time on market



**\$472**

Price per sqft

**Contact an agent**

**Schedule tour**

**Maine Secretary of State**



**2022 Annual Report  
Electronic Filing Acknowledgment**

For Limited Liability Companies on file as of December 31, 2021

**Charter Number:** 20216436DC  
**DCN Number:** 2220019181559  
**Legal Name:** 251 WEST MAIN LLC

**Registered Agent's Name and Address:**

THOMAS F JEWELL  
511 CONGRESS STREET SUITE 502  
PORTLAND, ME 04101

**Brief statement of the character of the business:**

REAL ESTATE INVESTMENT

**Name and Address of Member, Manager or other Authorized Person:**

EDWARD LIBBY  
374 ROUTE ONE, YARMOUTH, ME 04086  
P.O. BOX 666, YARMOUTH, ME 04096

**Date of Filing:** February 25, 2022

**Name and Capacity of Authorizing Party:**

THOMAS F. JEWELL, REGISTERED AGENT



## Attachment 7

**Subject:**  
**Date:**

[Wendy Simmons](#); [Erin Zwirko](#)  
RE: CZA request for 251 W. Main St.  
Friday, March 10, 2023 7:54:09 PM

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To the Planning Board:

I would like to offer my comments on the most recent CZA request proposal that has been submitted for the property at 251 W. Main St. I'm sure you are all aware of the recent history of this property, but allow me to quickly recap it from my perspective. The original request from May 2021, for an 8-house subdivision, was strongly disliked and unanimously opposed by the surrounding neighborhood, including myself. The proposed benefit of that plan was to bring affordable housing to Yarmouth's real estate market. Fair enough. It was discussed and rejected. The second proposal, dubbed the Tree Plan, was submitted a few months later. I found this drastically scaled-back plan for three houses to be a significant improvement; the applicant seemed to be making a good-faith attempt to address the many issues that were brought up at the first meeting. To be clear, there was still no compelling reason why the lot should be split at all, but it did seem to take into account many of our concerns. The primary benefit was that it would preserve most of the woods through a conservation easement and keep construction to the front of the property. I think I was alone in offering qualified, moderate support for that proposal for those specific reasons, but again, it was discussed and rejected. For most of last year, the property has been on the market, with a proposal to build a huge mansion and keep the existing building as a "carriage house". This plan also raised a few questions, since there is clearly already a house on the lot, and it is, of course, a one-house lot. Is it possible to change a house into a non-house simply by calling it a "carriage house"? Would I be allowed to build another house on my lot if I called my existing house a "carriage house"? Would that not require a CZA? It seemed like a very "creative" interpretation of the zoning laws, but I won't belabor the point since it seems to be off the table for now. Finally, a few weeks ago, the abutting neighbors were treated to the sight of "No Trespassing" signs being posted around the entire property, with the threat of criminal prosecution. Entirely within their rights, of course, but maybe not the best way to engender goodwill and sympathy from those whose quality of life you're seeking to irrevocably change.

I can't be the only one to have noticed that the latest proposal is missing some very important details, such as the location of the proposed houses to be built. That seems like a pretty big thing to leave out. It's also very vague about the location of the proposed new driveway on Newell Rd., which I shall discuss later. While the lots are very similar to the Tree Plan, the lack of any conservation easement means that building would be theoretically permissible anywhere on the lots, including right behind my house. It also means that they could be converted to lawn, gravel, paving, etc. at the builders' or future owners' whim. Regardless of where the houses would be located, it would mean the certain loss of the woods and a loss of any privacy for myself and the other abutting neighbors. Given the lack of detail,

## 7.1

I can only assume that these proposed houses will be gigantic; I can only assume they will come furnished with bright green, cookie-cutter, chemical-rich lawns. I can hear the leaf-blowers and gas mowers already - twenty feet from my bedroom window. I'll take the liberty of quoting Julia from her earlier proposal:

"From maintaining rural scenery and streetscapes, to enjoyment of the outdoors, to the ecological, economic and health benefits that our natural environment provides, maintaining, improving, increasing, and protecting our remaining natural spaces are of high priority to the Town and its citizens. Although it may be a small area compared to some of the larger protected spaces in town, it doesn't make the preservation of these old growth trees and this natural space any less important."

I couldn't have said it better myself, and I couldn't agree more.

After the preservation of the woods, the next most-mentioned concern throughout this process was the creation of a driveway on Newell Road, due to poor visibility, increased traffic, school buses, lack of sidewalks, etc. I can't believe we're still talking about this. There is no reason whatsoever to put a driveway on Newell Road. None. Zero. This is already a congested area, as indicated by the sign where presumably this driveway would be located (again, very little detail is provided). Recent snowstorms have, I'm sure, reminded us all of how awkward traffic can be here. There is a perfectly good driveway on W. Main St. Whether it's one or two or three houses, there is no reason they can't all use the existing driveway. Subordinate driveways can be run off of the main driveway with some slight redesign. People do it all the time. It's also worth mentioning that a Newell Rd. driveway would almost inevitably result in the removal of the stand of trees between my house and Main St., whether for purposes of visibility, utilities, construction, etc. These trees are owned by the Town of Yarmouth, not the applicant. More paving, more dead trees, more loss of privacy and habitat, all very much at odds with the clearly-expressed desires of the neighborhood, and for what? Who benefits from this?

Let's talk for a moment about the house that's already there, the one the owners actually purchased. I expect we'll hear a great deal about the value of historic preservation and I am all for it. However, the preservation of the existing house has absolutely nothing to do with splitting the lot or building new houses. It is a complete red herring. I suspect it will be presented as the "community benefit" that justifies the granting of the CZA request, but the two things are unrelated. The house can be preserved without anyone building anything. The house can be updated and sold. It's my understanding that the house can be demolished if

necessary, with a new building replacing it. As much as I am fond of the house and in favor of historic preservation, I will freely admit that it's way, way down on my list of priorities at this point. If the only two options were to lose the house or lose the woods (which they aren't), I'd choose losing the house in a heartbeat. So, preserve the house or tear it down, but let's not pretend that decision has anything to do with new construction.

Since the property changed hands in 2020, I have indicated that I would be very interested in buying a small strip of land from the owners, extending roughly 30 feet back from my back property line. The sale of such a small piece of land would not detract from the value of their land or interfere with any construction projects (though it wouldn't be compatible with the current proposal). It would do a great deal to improve my peace of mind and, incidentally, might make me more prone to support any future plans, for whatever that's worth. My most recent contact with the owners was in January of this year, when I reiterated my desire to buy and made what I think was a very generous offer for such a small strip. Both Julia and Ed did inform me that they were considering an array of options, and while I was disappointed to see that this proposal would leave no room for such a sale, I remain hopeful that at some point it might still be a possibility. Julia is, of course, under no obligation whatsoever to sell me any land at any price, but in our last communication she indicated that she would keep my offer in mind as things progress. I realize none of this will significantly alter anyone's opinion, but I mention it in the spirit of full disclosure.

Throughout this process, I've tried to keep in mind, and remind others, that the owners are perfectly within their rights to pursue all their options and make proposals. Having said that, this whole affair has been emotional and stress-inducing for me and many of my neighbors, as the future status of our homes and neighborhood remains up in the air and contingent on the decisions of others. I would remind you that these are our homes, not investment opportunities. Assuming this proposal is rejected, it would be nice if we didn't have to go through this yet again in a few months. I will write as many letters and attend as many meetings as I need to, but with all due respect, it may be time for the owners of the property to accept that what they bought and what they own is a one-house lot. That's what it's been for decades, that's what it was the day they purchased it, that's what it is now. No compelling reason has yet been offered as to why the current zoning regulations should be suspended.

What's especially frustrating is that this all seems so unnecessary. This property was, as everyone knows, purchased for a price well below market value. When the mega-mansion was being advertised, the ad mentioned that they would also consider selling the property "as-is". The price Ed quoted me was \$600,000; in other words, in their own estimation the property is worth three times what they paid for it. I personally will regret till my dying day not having had the foresight to purchase the woods from the Doughtys before it went on the market. But that's my problem. These folks won the lottery when they acquired this land, and there are so

many ways they could realize a huge profit that don't involve ruining the neighbors' properties and disrupting our lives. They can upgrade the house and sell; they can sell off the land; they can demolish and build a (single) new house. They'd have to work hard to NOT make a huge profit, which is why it's a bit galling that none of that is enough. There needs to be more for some reason. There seems to be an obsession with splitting up this lot that I just find baffling given the clear responses of the surrounding neighbors and, indeed, the Planning Board itself.

In closing, I just wanted to briefly mention that my communications with both Julia and Ed have been very cordial, and I certainly see no reason why that should change, despite having radically different opinions about what's best for the neighborhood and the town. My opposition to this proposal comes not from any personal animosity but from a desire to protect my home and quality of life. I also have no objection to them making a profit. I sincerely hope they make a substantial profit and move on to the next project. As I mentioned, I'd personally like to add to their profits by giving them a chunk of cash for a small strip of land, and I still hope that will happen. But I must ask the Planning Board to reject this proposal. It offers none of the safeguards of the previous "Tree Plan"; it offers the town no benefits; and it would have a completely negative impact on my property and those of the abutting neighbors.

Thank you for allowing me the opportunity to express myself, and look forward to attending the meeting on March 22.

Sincerely,  
Your neighbor,

Michael Lysek II  
21 Newell Rd.



## Attachment 8

**To:** [Erin Zwirko](#); [Wendy Simmons](#)  
**Subject:** Contract Zone Amendment and Minor Subdivision to Divide Existing 1.88 Acre Lot into Three Lots, Not Otherwise Permitted in the Medium Density Residential  
**Date:** Sunday, March 12, 2023 9:07:37 PM

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March 12, 2023

Erin Zwirko  
Director of Planning and Development  
Town of Yarmouth  
200 Main Street  
Yarmouth, Maine 04096

RE: Contract Zone Amendment and Minor Subdivision to Divide Existing 1.88 Acre Lot into Three Lots, Not Otherwise Permitted in the Medium Density Residential Zone (the "Concept")

Dear Erin,

I am deeply troubled that Ms. Lewis has drafted a Concept that includes an ill-conceived proposal to building driveway access from Newell Road. I am further troubled that Ms. Lewis (the "Applicant") is presenting another concept plan to the Planning Board that is not otherwise permitted in the Medium Density Residential ("MDR") Zone, which has a 1-acre minimum lot size. Out of the gate, the Concept violates the MDR Zone ordinance. Therefore, I see no reason to further entertain a discussion about the Concept.

You may recall, in May 2021, the Applicant submitted a subdivision concept plan for development of five affordable lots, two market rate lots, and preservation of one historical home that grossly violated the MDR Zone ordinance and received no support from the residents of Newell Road and surrounding neighborhoods (surrounding neighborhoods together with residents of Newell Road, the "Neighborhoods").

It appears that the Applicant did not take into consideration concerns raised by the Neighborhoods in May 2021. For the second time, Ms. Lewis proposes to build driveway access from Newell Road on a tricky bend in the road that:

1. overwhelming takes away the privacy of the abutting landowner at 21 Newell Road;
2. negatively impacts the safety of Newell Road, a street that has no sidewalks and is heavily travelled by pedestrians, young and old; and people walking their dogs; and
3. overcrowds a neighborhood that is densely populated and deemed by the

town as a “Congested Area” (there is a “Congested Area sign posted as soon as you enter Newell Road, along the bend in the road where the Applicant proposes to build the driveway access.)

The Minutes of the May 26, 2021 Planning Board Meeting, related materials, and public comments seem to suggest concerns developing this property given it is situated on a slope and its narrow size, among other potential development constraints. Concerns about run-off and drainage issues impacting the neighborhood were clearly raised at that time. Did the Applicant seek review by an engineering professional to determine if the land at 251 West Main Street can be developed?

In my view, the Planning Board has a duty to the residents of Newell Road and surrounding neighborhoods to act in our best interest to afford us the right to enjoy the privacy of our properties, prevent overcrowding our densely populated neighborhoods, and to live in safe neighborhoods. I ask that the Planning Board decline to enter into further discussions about this Concept because it is ill-conceived in a manner that it:

1. infringes on the safety and privacy of existing residents and pedestrians with building driveway access from Newell Road on a tricky bend in the road;
2. is not otherwise permitted in the Medium Density Residential Zone, which has a 1-acre minimum lot size, consequently overcrowds a neighborhood that is already densely populated;
3. has potential to create run-off and drainage issues in the neighborhood.

Regard,

*Kathryn*

Kathryn Vaznis

25 Newell Road, Yarmouth

Sent from [Mail](#) for Windows

## Attachment 9

March 14, 2023

Town of Yarmouth Planning Board

200 Main Street

Yarmouth, Maine 04096

Re: 251 West Main St

This letter is regards to 251 West Main's proposal to divide the lot into three lots and how Maine's LD 2003 would affect this subdivision. With the lot being in a designated growth area under LD 2003 the two .84 acre lots could have up to 4 ADU homes built on each and the existing home lot could have 2 additional ADU homes (SEC. 5. 30-A MRSA 4364-A). The towns' current comprehensive plan allows for ADUs up to 900 square feet, providing for two bedrooms, two baths, kitchen and living room and no restriction for two story ADUs.

In addition, the permitting process would be the same for a single-family home. One would be able to go directly to the Code Enforcement Officer for a building permit, circumventing the Planning Board.

Under the current ordinances the lot is allowed one home and one ADU. If this lot is subdivided, come July 1<sup>st</sup> when LD 2003 goes into effect this has the potential of 10 new ADUs plus the existing home.

We ask the Planning Board to reject this proposal as the impact on the neighborhood would be immense.

Respectfully,

Jim & Julie Crofts

51 Deacon Rd

Yarmouth, Me

240 West Main Street  
Yarmouth, Maine  
March 14, 2023

Dear Members of the Yarmouth Planning Board and Ms Erin Zwirko,

Thank you for allowing me the opportunity to respond to the proposal at 251 West Main Street. Since we will be away at the time of the meeting, this unfortunately will be my only opportunity to have my thoughts heard. Below is my response to the notice that we received regarding the latest application by Julia Libby regarding 251 West Main Street. I apologize for not getting this to you by the requested date of March 13th..

I have worked at following Julia's desire to develop that property since 2020. Little has changed since the last proposal in September, 2021, except that in this latest proposal there is no conservation easement. As I have noted in my previous letters to the Planning Board, I was opposed to the previous proposals and am again opposed to this new development at 251 West Main Street.

In 2020, Ms. Lewis applied for a demolition permit declaring that the historic home was not a building of value. At that time, Connor Watson was shown to be the owner. On the Planning Board report of May 20, 2021, Julia Lewis is shown as the owner of the property. Tax records show that Connor Watson bought the property on 8/28/2020. It was then purchased by West Main, LLC on 2/3/21, the owner of which is Ed Libby and not Julia Lewis, and the "character of the business" is "Real Estate Investment." This is important as he is not now trying to enhance and refurbish the historic old Doughty home, but rather to use it as another investment tool. The lack of transparency on the ownership of 251 West Main Street is troublesome.

In November of 2020, this first proposal was for 1 home on the lot, the size of which was 1.79 acres. In April of 2021, the new proposal requested a CZA so that 8 homes could be built on the lot of 1.79. And, at this point the property had changed ownership to Mr. Libby dba 251 West Main LLC. In September of 2021, the proposal changed again to 2 lots, but this plan included a Conservation Easement. The size of the property remained at 1.79. On February 8, 2023, a new proposal was submitted to the planning board. In this proposal, the owner through Ms. Lewis once again asked for a CZA for 2 lots on the property now measuring 1.88 acres. The latest survey was done last fall, 2022 (not 2023 as submitted by Julia), and I am wondering where the increased acreage was found. Transparency.

None of the proposals address the impact on driveways on either West Main Street or Newell Road. Both of these scenarios would be a hazard to pedestrians and other traffic. Somedays it is difficult to just get in and out of my driveway due to the heavy traffic coming out of North Yarmouth. Speeders are constantly being monitored (and stopped) by our local police staff parked down below my home or directly across the street. The traffic coming up from Newell and Deacon roads and children going to school would be negatively impacted.

This proposal also eliminates the small amount of wooded space that the wildlife in this area rely upon along with eliminating the natural beauty in this little corner of our neighborhood. With the elimination of the natural trees and undergrowth, storm water would greatly impact not only the existing soil beneath that old growth but also the homes directly down the hill on Newell and Deacon from any new development.

251 West Main, LLC's application refers to the Comprehensive plan, yet that plan is over 10 years old and much has changed to the landscape of Yarmouth since then. Yarmouth has now begun the process of drafting its newest Comprehensive Plan. At the latest Comprehensive Plan Update, Camoin and Associates reported that they "will be conducting a town wide market analysis and land use analysis. Their main goal is to identify how much development the town could support." The timeline for this part of the work is spring/summer of this year with a final draft to be presented in the spring of 2024. I am requesting that the Planning Board stop recommending new CZA's where the existing lot size is 1 acre minimum until a comprehensive plan can be established. As has been stated by many others in print media and letters to the planning board, it is up to a small group neighbors to speak up about small parcels of land being used for financial gains and thereby gobbling up every small open space not yet occupied by a dwelling. Yarmouth needs to ask ALL of its citizens how they want our town to be in the years to come.

I respectfully request and urge the Planning Board to stop granting proposals for the use of CZA's that cut up open spaces into tiny ones that do not keep the 1 acre minimum lot size. Let the entire town weigh in on what they want and do not leave it up to a small group of neighbors to be responsible to try to change what is clearly becoming the carving up of Yarmouth solely for financial gain.

Thank you for the opportunity to address my thoughts and concerns.

Sincerely,  
Nancy Gorden  
240 West Main Street

Samuel True House, ca 1790-1810  
251 West Elm Street, Yarmouth, ME

Based on a visit to the house documented by photographs and the deed research on the property and subsequent clarifications from Katie Worthing, Executive Director of Yarmouth Historical Society, I offer the following observations:

### Historic Record

Samuel True and brother Jacob bought several properties between 1799 and 1808, including a portion of their father's farm. Samuel had at least 6 surviving children between 1796-1809. This house was on the 75-acre farm sold by Samuel's heirs in 1828-9 "with all the buildings thereon." There were no other known houses or buildings on this 75-acre farm.

After several relatively short-term owners, the parcel was conveyed in an 1864 deed which includes, the 75 acres, "and the buildings thereon, consisting of an old house and barn." Only 36 years after the True heir's sale, if the house had been built after the True ownership or even shortly before the True heir's sale in 1828, it is unlikely that it would be referred to as an 'old house.' But if it had been built early in Samuel True's ownership – or partly by his father – it would have been 60+ years old. As with most historic research on building dates, buildings are often not mentioned in deeds and even when, it is difficult to pinpoint an exact date. Physical evidence on the site often supplements the written historic record and combined leads to the conclusion that although portions of the house may be earlier, that the present configuration is the Samuel True House.

### Physical Evidence

The following elements provide consistent and clear indications of an early date:

- The northwest quarter of the house was built over a crawl space, very atypical for surviving historic houses, likely indicating a small initial structure
- A rare early dry-laid field stone foundation typical of the 1700s is a full basement under eastern half of house
- The foundation under only the southeast room is mortared rough-cut stone topped by brick – all of a later date, between 1795 – 1830, indicating the house was built in three phases
- Substantial half-round and hand-hewn beams in both basement and attic
- Early very-wide-board attic floor, first floor subfloor and roof sheathing and wide-board original floors in all rooms except kitchen, which has a later wood floor atop
- Wide-board vertical paneling with narrow bead on the edge at the rear entrance, generally 1700s
- Roof structure of hand-hewn pinned truss and purlin
- Three "raised panel" Georgian-style doors – made prior to 1805
- Four hand-made simple board-and-batten doors with handmade Suffolk latches – 1700s up to 1820
- Narrow window openings typical of Federal style (1795 – 1830). Only original window is Federal in the rear, northwest room, though the size is shorter than front windows
- Federal-style mantel, chair rail and window and door trim in southwest room, above the most modern of the foundations

## 11.1

- The 1940s photo shows the barn with 9/6 windows – Georgia or Federal style (pre 1830); and the ell with shallow roof pitch and 6/6 windows, wider than main house window openings - ell was likely 1830 – 1860.
- The exterior of the house has asbestos and vinyl siding and the existence or status of earlier siding underneath is currently unknown.

Most homesteads evolved, and are most accurately dated by their earliest features, especially when several are clustered by date of common use. The interior has a remarkable number of surviving original features typical of the 1700s or first few years of the 1800s. Thus, based on the deeds and the physical evidence, it appears that the house was constructed between 1790-1810.

### Condition

There are a few loose foundation stones on the ground near the northwest corner of eastern basement, some perhaps coming from a hole made to peer into the crawl space under the northwest room, but on quick inspection the foundation below the two eastern rooms and the southwest room and other visible structural elements appear sound. The house has a new roof which appears fine. The former roof reportedly leaked and stained part of the ceiling, walls and the edge of the floor in the northwest room and there is some floor subsidence above the crawl space, though the walls and flooring remain in place and no rot was observed. Additional inspection is needed beyond the 15 minutes spent in the house photographing before assessing structural stability of the northwest room, but the house appears plumb from the exterior and any damage from the leak appears localized.

### Conclusion

The Samuel True House at 251 West Main Street is an early house and having never been substantially remodeled has an unusual number of surviving original features. Given limitations of a quick visit, it appears with a contractor experienced in historic rehabilitation that the house could be updated with plumbing, electricity, heating, new bathroom(s) and kitchen for less cost than equivalent new construction. The house illustrates a phased development of an early vernacular house over the late 18th or very early 19th centuries retaining many of its original features and is a building of value to Yarmouth.

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