
YARMOUTH PLANNING BOARD MINUTES

December 14, 2022

I. CALL TO ORDER

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

II. ROLL CALL OF MEMBERS

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

OTHERS

Erin Zwirko, Director of Planning & Development
 Julie Dubovsky, Assistant Planner
 Wendy Simmons, Administrative Assistant, Recording Secretary

III. APPROVAL OF MINUTES

Upon a motion duly made by Mary Lynn Engel, seconded by Jerry King and carried by a roll call vote of 5-0 the minutes of the November 9, 2022, meeting were approved.

IV. COMMUNICATION

Erin Zwirko gave the following update:

- No second meeting in December
- 298 Main St., Chase Bank, and Hancock Lumber are working with the Town to meet their conditions of approval before starting construction.

V. PUBLIC HEARING ITEMS

A. OLD BUSINESS:

1. Action Item: Capital Improvement Plan; Consultation and Request for Endorsement of the 5-Year CIP, FY 24 – FY 28.Yarmouth Town Charter, Article V. Sec 10. Capital Program.

The Planning Board, in consultation with the Town Manager and designated member(s) of the Town Council, shall prepare and submit to the Town Council, annually, a five-year capital program at least 120 days prior to the beginning of each budget year. The capital program shall contain such information as the Town Council may, from time to time, designate by order. The Town Manager will present the CIP for the Board's consideration, consultation, and endorsement. The Board may endorse the CIP as submitted or continue its involvement in the CIP in further meetings. Public Comment will be taken and the Board will vote on a motion to endorse the CIP.

Nat Tupper, Town Manager gave an overview of his presentation at the last Planning Board meeting. Some red flags include: climate change, erosion, affordable housing, the restoration of the Royal River, replacement of fire trucks and pump stations,

dredging, completion of phase II at the Town garage, revaluation, funding of playgrounds, parks and open space, rails and trails, the Main St. master plan, and closure of a portion of the dump.

Vice Chair Hansen opened to public comment.

No public comment.

Public comment closed.

The motion was made by Jerry King to recommend the Capital Improvement Plan for endorsement to Town Council. Seconded by Mary Lynn Engel and carried by a roll call vote of 6-0 (Ginsberg absent).

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

The applicant seeks approval of a common development scheme at 90 Main Street and the rear property. The existing structure at 90 Main Street remains, and the applicant proposes to develop two single-family homes behind the existing structure at 90 Main Street. In this preliminary submission, two two-way driveways are proposed in their existing positions. Parking and other site improvements are also proposed. This proposal will require review of a Development Plan and Building & Lot plan per Chapter 703, Character Based Development Code, Major Site Plan per Chapter 702, Site Plan Review, and Major Subdivision Plan per Chapter 601, Subdivision. A vote may be taken on the Preliminary Subdivision, but this is not a final approval. Public comment will be received.

Adam Lemire and Tom Platz, applicant representatives reviewed changes in the application. This application has been reviewed 3 times and a site visit was conducted. There are 6 waivers requested: 1. Alley definition, 2. Dead end thoroughfare, 3. Right of way width, 4. Parking location, 5. Increased height of the first floor to allow wheelchair accessibility, and 6. Submittal of the required photometric plan. They will continue to work with the Tree Warden to meet his recommendations to protect the existing trees. They will try to limit construction traffic to the Main St. entrance. They provided an analysis of landscape standards. They requested more time to review the document regarding sidewalk improvement costs and have more conversation with the Town. They will update and present the HOA document at the final review.

Chair Holden opened to public comment.

Susan Prescott, 58 Hillside St.

Concerned the proposal is too much for the site and the neighbors will be heavily impacted by the construction and changes. Concerned about the loss of trees, damage to existing trees and impact on the environment. The recommended requirements to fence off and protect the tree roots of the existing tree at Portland St. will cover the entire entrance making it unusable. Recommended the applicants reduce the scope of the work to one residence which does not enter and exit on Portland St.

Ed Ashley, 20 Spartina Point

Recommended one residence only and all construction traffic use the Main St. driveway. Requested the Board be specific about which trees are allowed to be removed. The Alley for the thoroughfare and waiver are appropriate. Recommended the removal of the proposed sidewalk and suggested permeable surface on the driveways; not paving. Suggested 3 shade trees be planted behind building B on the property line.

Lisa Small 52 Balsam Lane

Managing the existing trees will be challenging. Suggested a condition of approval requiring permeable materials for the driveway which will give the trees the best chance of survival.

Public comment closed.

The Board is concerned about protecting the Titcomb's house from the impact of heavy equipment and requested all construction activity be isolated to the Main St. entrance. They questioned driveway pavement and asked if a permeable surface could be used? E. Zwirko – The driveway needs to be able to support a fire truck. They questioned the purpose of a sidewalk? A. Lemire – the purpose of the sidewalk was to meet the road width requirements of the Fire Chief and to buffer the Titcomb's property from the driveway. The Board discussed tree protection and requested a generously fenced area to protect tree roots. The windows at the top of the dormer are crowded and not proportional. The Board discussed the waivers and had no major concerns. They requested the applicant work with the Yarmouth Water District to determine if water can come from Main St. and not Portland St. They requested the easement be clearly defined in writing and who pays for what maintenance. T. Platz confirmed the easement and maintenance would be documented in the HOA documents.

The following motions were made:

SITE PLAN REVIEW WAIVER OF CERTAIN APPLICATION REQUIREMENTS

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 December 8, 2022 for Preliminary Major Subdivision, Charles Hewitt and Katherine Carey, Applicant; 90 Main Street Development, Map 32 Lots 7 and 11, regarding the compliance with the applicable regulations and standards of Chapter 702, Site Plan Review, the Planning Board hereby finds and concludes that not requiring a photometric plan is consistent with intent of the Site Plan Review Ordinance and is therefore approved.

Such motion moved by Janet Hansen, seconded by Mary Lynn Engel, and voted 6 in favor, 0 opposed, (Ginsberg absent)

WAIVER FOR ALLEY THOROUGHFARE AND RIGHT OF WAY WIDTH

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 December 8, 2022 for Preliminary Major Subdivision, Charles Hewitt and Katherine Carey, Applicant; 90 Main

Street Development, Map 32 Lots 7 and 11, regarding the compliance with the applicable regulations and standards of Chapter 703, the Character Based Development Code, the Planning Board hereby finds and concludes allowing the use of the Alley Thoroughfare and a wider right of way meets the required standards and is therefore approved.

Such motion moved by Janet Hansen, seconded by Jerry King, and voted 6 in favor, 0 opposed, (Ginsberg absent)

WAIVER FOR DEAD END THOROUGHFARE

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 December 8, 2022 for Preliminary Major Subdivision, Charles Hewitt and Katherine Carey, Applicant; 90 Main Street Development, Map 32 Lots 7 and 11, regarding the compliance with the applicable regulations and standards of Chapter 703, the Character Based Development Code, the Planning Board hereby finds and concludes allowing a Dead End Thoroughfare meets the required standards and is therefore approved.

Such motion moved by Janet Hansen, seconded by Mary Lynn Engel, and voted 6 in favor, 0 opposed, (Ginsberg absent)

WAIVER FOR LOCATION AND SCREENING OF PARKING

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 December 8, 2022 for Preliminary Major Subdivision, Charles Hewitt and Katherine Carey, Applicant; 90 Main Street Development, Map 32 Lots 7 and 11, regarding the compliance with the applicable regulations and standards of Chapter 703, the Character Based Development Code, the Planning Board hereby finds and concludes the location and screening of the parking spaces meets the required standards and is therefore approved.

Such motion moved by Janet Hansen, seconded by Jerry King, and voted 6 in favor, 0 opposed, (Ginsberg absent)

WAIVER FOR ELEVATION OF FIRST FLOOR

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 December 8, 2022 for Preliminary Major Subdivision, Charles Hewitt and Katherine Carey, Applicant; 90 Main Street Development, Map 32 Lots 7 and 11, regarding the compliance with the applicable regulations and standards of Chapter 703, the Character Based Development Code, the Planning Board hereby finds and concludes the elevation of the first floor meets the required standards and is therefore approved.

Such motion moved by Janet Hansen, seconded by Mary Lynn Engel, and voted 6 in favor, 0 opposed, (Ginsberg absent)

PRELIMINARY SUBDIVISION PLAN

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 December 8, 2022 for Preliminary Major Subdivision, Charles Hewitt and Katherine Carey, Applicant; 90 Main Street Development, Map 32 Lots 7 and 11, regarding the compliance with the applicable regulations and standards of Chapter 601, Subdivision, the Planning Board hereby finds and concludes that the Preliminary Major Subdivision meets the required standards and is therefore approved subject to the following conditions of approval:

1. The applicant shall confirm that the solid waste hauler turning movement diagram reflects the trucks used by the preferred hauler.
2. The applicant shall assess the use of pervious pavement on the site in coordination with the Town Engineer.
3. The applicant shall provide EV ready parking spaces on the site.
4. The applicant shall continue to work with the Tree Warden to select native species and further develop the tree protection plan with input from the Tree Advisory Committee.
5. The applicant shall provide written documentation that there is agreement with the owners of 18 Portland Street that the right of way easement remains in full force.
6. The applicant shall submit revised Homeowner Association documents that incorporates the following items for review and approval by the Town Engineer and the Director of Planning & Development:
 - a. The Association's responsibilities relative to stormwater management;
 - b. The Association's responsibilities relative to snow removal;
 - c. The Association's responsibilities relative to tree trimming as requested by the Fire Chief; and
 - d. Incorporates the right of way easement to the benefit of 18 Portland Street.
7. The applicant shall submit a detailed construction management plan that ensures access is uninterrupted and maintained to 18 Portland Street, incorporates the requirements of the erosion and sedimentation control plan, and identifies conditions when the Portland Street driveway is needed for construction access subject to the Town Engineer's approval.
8. The applicant shall incorporate the Historic Preservation Committee's recommendations for the new construction in the Lower Village Historic District.
9. The applicant shall either incorporate the required improvements to the frontage along Main Street for review and approval by the Town Engineer and DPW Director or agree that a contribution in the amount identified by the Town Engineer in his memorandum dated November 29, 2022, be made subject to final approval of the project.
10. The applicant shall incorporate the plan review comments from the Town Engineer in his memorandum dated October 3, 2022 and November 28, 2022, the Fire Chief in his memorandum dated September 20, 2022 and November 23, 2022, and the Yarmouth Water District Superintendent dated October 6, 2022.
11. The applicant shall consult with the Yarmouth Water District to determine whether water service can be accessed from Main Street rather than Portland Street.

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

B. NEW BUSINESS:

1. Workshop Item: Proposed Zoning Amendment, Chapter 701, Article II.DD, Affordable Housing Programs, to adopt inclusionary zoning requirements, Requested by Yarmouth Affordable Housing Committee.

Local inclusionary housing policies tie the creation of affordable homes for low- and moderate-income households to the construction of market-rate housing. The Affordable Housing Committee proposes that rental and ownership projects that meet threshold requirements contribute 10% of the total units as deed-restricted affordable units. Affordable units are proposed be available to eligible households that earn up to 80% of the area median income for rental units and up to 120% of the area median income for homeownership units. Development incentives are also proposed. Public comment will be received. No vote will be taken.

Meghan Casey and Jay Waterman gave a presentation of the work the Affordable Housing Committee has been doing. Affordable housing has been a Town priority for 30 years and no program has been implemented and no development has taken place. The committee conducted research and a housing needs analysis. Research included contacting other towns to find out about their programs and conducted a listening session. Housing prices continue to rise in Yarmouth, middle income families are being priced out of the housing market and cannot afford market rate rentals.

The committee had 3 focus areas presented to Town Council in January of 2022: 1. Zoning – reevaluate, 2. – Organizational – increasing Town staff to support and enforce affordable housing initiatives and 3. Financial – Creation of a Trust or TIF. The Inclusionary Zoning goal would be to widely disperse affordable homes throughout the town. As development occurs, developers would be required to provide 10% of the units as affordable and be no more than 30% of income. Units must be comparable to other units, payment could be made in lieu of affordable units, they cannot be used a short-term rentals, and must meet architectural and landscape standards. Incentives were defined to offer developers including additional units, additional height, and fewer parking spaces.

Inclusionary Zoning is simply one tool in the tool box and affordable housing is a complex issue. Other avenues include the implementation of LD2003, affordable housing TIF zones, Town Local Development Corporation (already established through EDAB), creation of a housing non-profit, use of municipally owned property and revisiting town-wide zoning.

Chair Holden opened to public comment.

Leigh Kirchner, 78 Tenney St.

Lives behind Bartlett Woods. Everyone has the right to have a decent place to live. Working with AIP she sees people who want to stay in Yarmouth but cannot because they cannot afford it after selling their larger single-family home. People need to not be afraid of change.

Mike Perfetti, Business owner of Cape Shore on Downeast Drive
He's owned his business in this location since the 1980s. They have problems retaining employees. He recently lost an employee who had to take a job closer to home because the commute included 2 bus rides. They have long time employees who feel alienated in the town they grew up in. Strongly supports affordable housing, including higher density and increased height. This current proposal is modest, potentially providing only a couple units/year. Yarmouth lacks socio-economic diversity.

Marge Titcomb, 18 Portland St.
Neighbor of 90 Main St. and if the proposal would have been affordable housing, she would have embraced the project whole heartedly. Supports infill.

Newell Auger, 58 Waters Edge
Also representing the Maine Real Estate Development Association (MEREDA). Committed to finding solutions to affordable housing and increasing house stock; but if the numbers don't work then developers will not build in Yarmouth. The State overall has a significant housing supply issue. Encouraged the Town to consider other solutions including TIF and density bonuses.

Rachel Houlihan, 23 Ledgewood Drive
Became involved with the New Mainers and found it very difficult to find them housing and was disappointed Yarmouth could not accommodate them. Fully supports affordable housing.

Julia Libby, 538 Portland St.
Questioned the maximum cost for a house to be considered as affordable. Questioned if in building a subdivision if it was even feasible to build a house that is affordable at current costs? Most affordable housing in Yarmouth has been achieved through contract zones and currently the Town is not supportive of them.

Chris Slader, 31 Bridge St.
Lived in Yarmouth 40 years and even 40 years ago housing was not affordable. He finally found a house with an apartment and the rent helps subsidize the mortgage. This is a problem that requires multiple answers and many tools.

Stephen Morris, 31 Chestnut Lane
The 10% goal of affordable housing will not make the impact it needs to.

Anna Stephanie, 125 West Elm St.
Has been exploring an ADU at their property to add additional housing and meeting future needs. Fully supports Inclusionary Zoning and all the tools proposed in the presentation should be considered.

Public comment closed.

The Board requested more time to consider the Inclusionary Zoning proposed. The February deadline requested by the Town Council does not give them enough time for the due diligence this requires. This is a complicated issue and a lot to process. Questioned how LD2003 will impact affordable housing and increase in density. They

Approved: 1/11/2023

want to understand more about how affordable units will be subsidized. Questioned if short term rentals are impacting the house stock? Concerned about putting the burden of the cost on the developers. Questioned if this should be looked at regionally since all the surrounding towns are similar and could work together? Would like a better understanding of how Yarmouth got into this situation. Suggested the Town consider setting aside money in support of affordable housing.

Jay Waterman requested the Board forward any questions or comments/changes to the Committee.

ADJOURNMENT

With no objection, the meeting adjourned at 10:30 PM.

Respectfully submitted:

Wendy Simmons, Administrative Assistant, Recording Secretary