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**Town of Yarmouth****MINUTES OF THE PLANNING BOARD MEETING OF  
April 3, 2013**

The Yarmouth Planning Board held a business meeting at 5:30 p.m. on Wednesday, **April 3, 2013** in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

**Planning Board Present:** Norm Weare, Ken Driscoll, Chris Vincent, Tom Roche, Tom DiPersio, and Brad Goodwin

**Planning Board Absent:** None

**Others Present:** Kathy Williams, Town Planner; Michael Stusse, Attorney; Steve Shuman, Architect; Dan Ojala, Down Cape Engineering ; Andrew Garulay, Down Cape Engineering; and Rob Angell, Tree Warden

Planning Board Chairman Chris Vincent opened the meeting at 5:31 p.m.

1. **PUBLIC HEARING ON SCENIC ROAD APPLICATION** –Application submitted by Emelyn Grize to remove two choke cherry trees in the public way in front of 64 Mill Lane, Yarmouth Port. One tree is a 6" single trunked tree while the other forks into two 7" trunks. Mill Lane is a Scenic Road.
  - a. **Hearing Opening:** Chris Vincent, Planning Board Chairman opened the public hearing at 5:33.
  - b. **Public Hearing Notice:** The attached Joint Public Hearing notice which was published in the Register on March 14, 2013 and March 21, 2013 was read into the record. Abutters within 100' were notified of the public hearing through a mailing sent on March 20, 2013.
  - c. **Presentation:** Andrew Garulay of Down Cape Engineering gave a brief presentation of the project as outlined in the attached application materials.
  - d. **Tree Warden Comments:** Robert Angell, Tree Warden, indicated that these trees were not of great ornamental value, agreed that the location of the driveway was appropriate and had no objection to the removal of these two trees.
  - e. **Public Comments:** None
  - f. **Planning Board:** After a brief discussion, the Planning Board voted as follows:

**VOTE: On a motion by Tom DiPersio and seconded Norm Weare, the Board voted (6-0) unanimously to approve the removal of two choke cherry trees within the public way at 64 Mill Lane, Yarmouth Port, as outlined in the documents submitted by the applicant.**
  - g. **Hearing Closed:** **VOTE: On a motion by Tom Roche, seconded by Norm Weare, the board voted (6-0) unanimously to close the Public Hearing at 5:43PM.**

2. **Continued PUBLIC HEARING: Definitive Subdivision Plan 2616F and Special Permit Petition #109:** Charles White Management Co. Inc, 251 Route 28, West Yarmouth, Assessor's Map 37, Parcel 62.1. Definitive Plan to create a 4 lot subdivision. Special Permit to allow two-family dwelling units within a B2 business zoning district. The applicant is proposing to raze and replace two existing single family dwellings with three new two-family dwellings, and raze and replace an existing retail commercial building with a new mixed use commercial building to include two 1-bedroom apartments on the second floor.

The March 20, 2013 Public Hearing on Definitive Subdivision Plan 2616F and Petition #109 was continued to April 3, 2013.

Dan Ojala outlined revisions made to the plans based on previous staff comments. Refer to the attached revised plans. Mike Stusse updated the board on the affordable units and indicating he was proposing to have one of the apartments be affordable, rather than both units. Based on the number of new dwelling units being created, the zoning regulations only require one affordable unit. The applicant is going before the Community Housing Committee (CHC) on May 8, 2013. Mike Stusse indicated that two units were originally proposed as he was mistakenly under the impression that the units would be affordable for 15-20 years, when in actuality they would be required to be affordable in perpetuity. Mike Stusse and Steve Shuman discussed the high costs associated with the project and that there is always the option of not providing any housing above the commercial building which would reduce construction costs. They indicated that the requested density is needed to make the project financially viable. If the duplexes are not allowed, then the applicant may just rehabilitate what's on the site now. Mike Stusse indicated that the units above the commercial building would be quality units.

Kathy Williams, Town Planner, gave a brief overview of the attached Supplemental Planner Report.

Brad Goodwin indicated he liked the closing of the curb cut and the use of a packaged wastewater system, and had no problem with one affordable unit. Brad Goodwin also mentioned the new option of a cash payment to meet the affordable housing requirement, based on the passage of a zoning amendment at the 2013 annual town meeting.

Tom Roche indicated he was disappointed in the reduction of affordable units to one unit, when the applicant's original proposal called for 2 units.

Norm Weare indicated the CHC is meeting with the applicant on Monday May 8<sup>th</sup>. He was not sure how the top of shop units could be considered equivalent to the duplexes and would prefer to see two affordable units, but this would be negotiated with the CHC.

Tom DiPersio indicated he liked the reduced curb cuts, and environmentally friendly I/A septic system. He indicated that he would like to see the two affordable units and would like to hear from the CHC. He also indicated that the placement of a duplex on Lot 3 is in an area of the lots which is somewhat pristine. A duplex in this area would have more impact on the wetland resource areas than a single family home, which would have a smaller footprint and may be less intrusive. Although an Order of Conditions was issued by the Conservation Commission, the Planning Board should look at this as part of the Special Permit request.

Ken Driscoll felt the applicant had done a good job addressing the previous comments and was inclined to go with one affordable unit and would go with the CHC recommendation.

Chris Vincent liked the site design. He was originally concerned about the reduction in affordable units. However, after hearing the explanation from Mike Stusse, he is comfortable letting the housing committee decide this issue.

After further discussion, the Board was comfortable with requiring only one of the units to be affordable in accordance with the zoning bylaw, and leaving it to the CHC to negotiate the details with the applicant.

The Planning Board reviewed findings included in the supplemental planner report and added a reference to the closing of a Route 28 curb cut and the inclusion of an I/A, pressure dosed wastewater system discharging outside of any resource areas. Planning Board discussed a condition clarifying the required shade trees for the Definitive Plan.

**VOTE – DEFINITIVE PLAN: On a motion by Brad Goodwin and seconded by Norm Weare, the Board voted (6-0) unanimously to APPROVE Definitive Plan 2616F with the following waivers and conditions:**

Waivers granted from the Rules & Regulations Governing the Subdivision of Land:

1. Waiver granted from the requirement to round property lines at street intersections, as outlined in Section 4.2.1 (i), to allow for no rounding of the right-of-way on the west side of the new roadway intersection with Route 28.
2. Waiver granted from the requirement to pave cul-de-sacs, as outlined in Section 4.2.6, to allow a vegetated cul-de-sac island.
3. Waiver granted from the requirement to center the roadway pavement within the right-of-way, as outlined in Section 5.1.6, to allow the roadway pavement to be partially off center.

Conditions:

1. The Plan must be altered to indicate the street numbers for each lot and/or dwelling unit.
2. The Plan must be altered to show ties into the Massachusetts State Plane Coordinates.
3. The cul-de-sac must be large enough for a fire engine to turn around. The subdivision access and access to the commercial property must accommodate the Tower 41 fire truck.
4. In addition to the 8 red maples shown in the bioretention areas, the seven trees shown within the right-of way or just outside of the right-of-way shall be White Cherry Trees of a minimum 3" caliper.

**VOTE – SPECIAL PERMIT: On a motion by Brad Goodwin and seconded by Norm Weare, the Board voted (6-0) unanimously to grant the applicant the requested relief for Petition #109 with conditions as follows:**

**RELIEF GRANTED FROM SECTION 202.5.A2 AND CONDITIONS FOR APPROVAL:**

Relief is granted from Section 202.5.A2 – Use Regulation, to allow for two-family dwelling units to be located within a B2 zoning district on Lot 1, Lot 2, Lot 3 and Lot 4, with the following conditions:

1. The project shall consist of one (1) affordable 1-bedroom unit on Lot 1 to be located on the second floor of the proposed mixed use commercial building. The affordable unit or units shall qualify as low or moderate income units for the purposes of M.G.L. Ch 40B, sec. 20-23 and shall be in compliance with 760 CMR 56.00 the Local Initiative Program (LIP) and meet the guidelines and standards promulgated thereunder by the DHCD for the

- inclusion in the DHCD Ch 40B Subsidized Housing Inventory as Local Action Units. The affordable units shall comply with the Town of Yarmouth Affordable Housing Standards.
2. Duplexes on Lot 1 shall be located above the commercial space and shall not be in a separate or attached building.
  3. Lot 3 shall have a minimum 12' wide paved driveway.
  4. Each dwelling unit in the duplex buildings shall have their own water service with shut offs and shall meet the requirements of the town of Yarmouth Water Department.

**Close of Public Hearing:** VOTE: On a motion by Tom Roche, seconded by Norm Weare, the board voted (6-0) unanimously to close the Public Hearing at 6:35 PM.

3. **Annual Town Meeting:** Briefly discussed the successful ATM where all six zoning amendments readily passed.
4. **Meeting Minutes:**
  - a. **March 13, 2013:** On a motion by Brad Goodwin and seconded by Norm Weare, the Planning Board voted (6-0) unanimously to approve the Planning Board meeting minutes of March 13, 2013.
  - b. **March 20, 2013:** On a motion by Ken Driscoll and seconded by Norm Weare, the Planning Board voted (6-0) unanimously to approve the Planning Board meeting minutes of March 20, 2013.
5. **Zoning Board of Appeals:** None.
6. **Correspondence:** The following attached correspondence was distributed in the Planning Board packets:
  - a. March 28, 2013 DEP Chapter 91 Waterways License Application Notification for 244 Blue Rock Road.
  - b. Spring Walking Weekend 2013 notification from Cape Cod Pathways
  - c. Barnstable April 24, 2013 ZBA Public Hearing Notice.
  - d. Petition #110 Decision for Michael Healy (DBA Kim Holdings, LLC), 5 Appleby Road, West Yarmouth
7. **Board Items:** Brad Goodwin inquired as to how the various chapters of the Local Comprehensive Permit must be voted at Town Meeting and whether all chapters need to be approved at one meeting. Staff will look into this. Chris Vincent also mentioned going over a list of Planning Board goals and look at what needs to happen.
8. **Staff Update:** Have a Public Hearing for 2121B 196 Pleasant Street and an ANR on the schedule for the next Planning Board meeting. Site Plan Review is going to be looking at three solar array projects at Mattacheese, DY and Marguerite Small. Main issue for planning will be screening related to the neighbors and public roads.
9. **Next Meetings:**
  - a. April 17, 2013
  - b. May 1, 2013

## 6. Adjournment:

**VOTE: On a motion by Tom Roche, seconded by Tom DiPersio, the board voted (6-0) unanimously to adjourn at 6:48 p.m.**

### **ATTACHMENTS:**

- Agenda 04/03/13
- **Scenic Road Application:** March 29, 2013 Planner Report on Scenic Road Application by Emelyn Grize for 64 Mill Lane Yarmouth Port, including Memo, Joint Public Hearing Notice and all attachments referenced in the March 29<sup>th</sup> memo.
- **Definitive Plan 2616F & Petition #109:** April 3, 2013 Supplemental Staff Report with April 3, 2013 comments from Doug Wrock, Town Surveyor. **Revised Plans:** Revised Definitive Plans prepared by Down Cape Engineering: Definitive Plan dated January 9, 2013 and revised April 3, 2013; Details to accompany Definitive Plan, dated January 23, 2013 and revised March 29, 2013; Road Profile Plan to accompany Definitive Plan, dated January 23, 2013 and revised March 29, 2013; and Turning Radius Sketch Plan dated March 29, 2013. Revised Special Permit Plans prepared by Down Cape Engineering: Existing Conditions, Sheet 1 of 5, dated September 18, 2012, last revised March 29, 2013; Layout/Landscaping, Sheet 2 of 5, dated September 18, 2012, last revised March 29, 2013; Utilities/Grading, Sheet 3 of 5, dated September 18, 2012, last revised March 29, 2013; Details, Sheet 4 of 5, dated September 18, 2012, last revised March 29, 2013; and Details, Sheet 5 of 5, dated September 18, 2012, last revised March 29, 2013.
- March 13, 2013 Draft Meeting Minutes
- March 20, 2013 Draft Meeting Minutes
- March 28, 2013 DEP Chapter 91 Waterways License Application Notification for 244 Blue Rock Road.
- Spring Walking Weekend 2013 notification from Cape Cod Pathways
- Barnstable April 24, 2013 ZBA Public Hearing Notice.
- Petition #110 Decision for Michael Healy (DBA Kim Holdings, LLC), 5 Appleby Road, West Yarmouth

***Approved on May 1, 2013***

**On a motion by Brad Goodwin and seconded by Ken Driscoll, the Planning Board voted (4-0) unanimously to approve the Planning Board meeting minutes of April 3, 2013.**