

## Town of Yarmouth

### MINUTES OF THE PLANNING BOARD MEETING OF November 5, 2014

The Yarmouth Planning Board held a Business Meeting at 5:30 p.m. on Wednesday **November 5, 2014** in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

**Planning Board Present:** Angela Philbrook, Anthony Panebianco, Ken Driscoll, Norm Weare, Chris Vincent, Tom Roche, and Brad Goodwin.

**Planning Board Absent:** None.

**Others Present:** Kathy Williams, Town Planner; Dan Ojala, Down Cape Engineering; Attorney Mike Stusse; Craig Williams; Mark Connelly; Attorney Diane Sunderland; and Robert Clark.

Planning Board Chairman Norm Weare opened the meeting at 5:37 PM.

1. **ANR 1845B:** Robert and Maureen Clark TR, Martin & Denise Murphy, and Tecla Mickoseff TR, of 85 Longfellow Drive, 34 Old Castle Road, and 35 Old Caste Road, Yarmouth Port, Assessor's Map 151, Parcels 102, 111, and 112, respectively, located in the R40 zoning district. The ANR corrects a survey error between 2 subdivision plans that impacted these three lots.

Dan Ojala of Down Cape Engineering submitted a revised plan dated November 4, 2014 which included the book and page for the three recorded ZBA Special Permits and identified monuments to be set. Dan Ojala gave a very brief presentation and there were no comments from the Planning Board.

**VOTE:** On a motion by Chris Vincent and seconded by Anthony Panebianco, the Planning Board voted (7-0) unanimously to endorse ANR Plan 1845B dated June 16, 2014 and revised on July 29, 2014 and November 4, 2014 with Angela Philbrook, Anthony Panebianco, Ken Driscoll, Norm Weare, Chris Vincent, Tom Roche, and Brad Goodwin voting in favor.

2. **Continued Public Hearing – Definitive Subdivision Plan 2926C:** Craig Williams Trust & Simon Milberg, and Simon & Bonnie Milberg of 77 North Dennis Road, seek approval of a 3-lot Definitive Subdivision Plan for property located at 77 North Dennis Road and a lot off of West Great Western Road, South Yarmouth, as shown on Assessor's Map 109, Parcels 11 & 22.1. These lots total 6.71 acres and are located in the R40 zoning district. The proposed subdivision includes a short road with 2 new lots; and reconfiguration of a currently developed third lot.
  - a. **Hearing Continuation:** Norm Weare, Planning Board Chairman continued the hearing for Definitive Subdivision Plan 2926C, which was opened on October 15, 2014.
  - b. **Presentation:** Supplemental information was submitted by the Applicant since the previous meeting and is included in the attached November 3, 2014 Memo from Kathy Williams, Town Planner, including a revised Road Profile Plan, last revised October 31, 2014, which reflected many comments provided by the Planning Board at the October 15, 2014 Planning Board meeting.

Dan Ojala and Attorney Mike Stusse represented Simon Milberg and Craig Williams. Dan Ojala gave a brief presentation of the revised plans including keeping the driveway to 20 Nick-Em way in the same location and including a paved apron; paving the roadway to just beyond this driveway; adding a note for the existing woods east of the road to remain; enlarging the western radius and labeling the radii; detailing the stormwater overflow and infiltration berm; retaining overhead utilities serving the existing houses with underground for the two new lots; showing additional monumentation to be set; and revising the road maintenance agreement to meet Fannie Mae requirements. Dan Ojala also reviewed the 8 waivers being requested as outlined on the Definitive Subdivision Plan.

- c. **Public Comments:** Mark Connelly, an abutter at 28 West Great Western Road, inquired as to whether any land takings would be required and if so would there be any compensation. He also wanted to know if there would be any drainage impacts to his property. Dan Ojala indicated no land takings required and that the existing fence and vegetation along his property would remain with minimal grade changes. All stormwater would sheet away from his property to the new on-site drainage system. Mr. Connelly thought the project would be an improvement in the end as it will stop the trucks coming in and out of the property.
- d. **Staff Comment:** Kathy Williams, Town Planner, noted the attached draft Form C-1 included in the Board's meeting packets which outlined the needed waivers and possible conditions the Planning Board may wish to impose. The Town Planner noted the possible need for two other waivers, one for not paving the center of the cul-de-sac and a possible waiver to allow some of the overhead utilities to remain. Specific input from the board was requested on three items: requiring 1' gravel shoulders or allowing 6" gravel shoulders as shown on the plans, pave approximately ½ the road as shown or require pavement of the entire road; and whether to allow the overhead utilities to existing structures to remain.

Kathy Williams also noted that although Anthony Panebianco was not at the October 15, 2014 meeting, he has reviewed the materials and the video of the meeting and signed an Affidavit to this effect, which is now part of the record. This allows him to be able to vote on the subdivision.

e. **Board Comments:**

- 1) Angela Philbrook noted that she has reviewed the revised Road and Drainage Maintenance Agreement and felt it met the requirements of Fannie Mae.
- 2) Anthony Panebianco had some concerns about the Agreement regarding the definition of "owner" in Item 2 and whether this should include heirs, successor, and assigns. He also felt Item 6 – Cost Sharing, should not reference "undersigned" owners, as the obligation would be for the current owners to maintain the road and drainage. After discussion, and input from Attorney Stusse, it was agreed to amend Item 2 to read, "An Owner is defined as the record owner of a Parcel, or Trustee or personal representative of said Owners"; and amend Item 6 to remove the work "undersigned".
- 3) Ken Driscoll felt the current design was well thought out and he was glad the neighbor came to the meeting.
- 4) Chris Vincent concurred with Ken Driscoll and indicated he was okay with the 6" shoulders, partial gravel drive and with retaining the existing overhead utilities to the existing houses and going underground to the two new lots.

- 5) Tom Roche indicated he would still like to see the road paved to lessen the burden on the home owners.
- 6) Brad Goodwin inquired about the utility pole on the east side. Dan Ojala indicated the first pole would be left in its current location (approximately 6" off the road) and the second pole would be moved approximately 40' to the east to reduce visibility.
- 7) Norm Weare indicated he would also like the road paved, but doesn't have any serious issues with the current plan and felt the subdivision was a good plan for the property.

The attached draft C-1 Certificate of Approval of Definitive Plan was reviewed by the Board. After discussion, the Board members agreed to amend the waivers as follows:

- Item 4 – Allow for Alternative 2 which would allow for partial paving of the roadway; allow for 6" gravel shoulders on both sides of the road (including the back side of the berm).
- Item 7 – The Board felt there was no need to have a waiver to allow the existing overhead utilities to continue to service the two existing houses.

The Board agreed to amend the conditions as follows:

- Eliminate Condition #6 which required modifications to the Road Profile Plan based on the approved waivers and conditions, as no changes to the plans are required.

**VOTE: On a motion by Brad Goodwin and seconded by Chris Vincent , the Planning Board voted (7-0) unanimously to approved Definitive Subdivision Plan 2926C with the waivers and conditions outlined in the draft Certificate of Approval of Definitive Subdivision, as amended, with Angela Philbrook, Anthony Panebianco, Ken Driscoll, Norm Weare, Chris Vincent, Tom Roche and Brad Goodwin voting in favor.**

f. **Public Hearing Closed:**

**VOTE: On a motion by Tom Roche and seconded by Chris Vincent, the Planning Board voted (7-0) unanimously to close the Public Hearing at 6:30 PM with Angela Philbrook, Anthony Panebianco, Ken Driscoll, Norm Weare, Chris Vincent, Tom Roche, and Brad Goodwin voting in favor.**

3. **Meeting Minutes:**

- a. **October 1, 2014:** On a motion by Tom Roche and seconded by Brad Goodwin, the Planning Board voted (5-0-2) to approve the Planning Board meeting minutes of October 1, 2014; with Anthony Panebianco, Norm Weare, Chris Vincent, Tom Roche and Brad Goodwin voting in favor; and Angela Philbrook and Ken Driscoll abstaining.
- b. **October 15, 2014:** On a motion by Chris Vincent and seconded by Ken Driscoll, the Planning Board voted (6-0-1) to approve the Planning Board meeting minutes of October 15, 2014; with Angela Philbrook, Ken Driscoll, Norm Weare, Chris Vincent, Tom Roche and Brad Goodwin voting in favor; and Anthony Panebianco abstaining.

4. **ZBA Agenda & Decisions:** None.

5. **Next Meeting:** November 19, 2014.

**6. Adjournment:**

**VOTE: On a motion by Tom Roche, seconded by Chris Vincent, the board voted (7-0) unanimously to adjourn at 6:37 p.m.**

**ATTACHMENTS:**

- **Agenda November 5, 2014.**
- **ANR 1845B:** October 31, 2014 memo from Kathy Williams, Town Planner, with all attachments reference in the memo; and new ANR Plan # 1845B with last revision date of 11/4/14.
- **Definitive Subdivision 2926C:** November 3, 2014 memo from Kathy Williams, Town Planner, with all attachments referenced in the memo including a revised Road Profile Plan last revision date of October 31, 2014; draft waivers and conditions; and revised Draft Road Maintenance Agreement. Also attached is an Affidavit from Anthony Panebianco indicating he reviewed the materials and video for the October 15, 2014 Planning Board meeting he missed, making him eligible to vote on the Definitive Subdivision.
- **Meeting Minutes:** October 1, 2014 and October 15, 2014

***Approved on December 3, 2014:***

**On a motion by Tom Roche and seconded by Anthony Panebianco, the Planning Board voted (4-0) to approve the Planning Board meeting minutes of November 5, 2014; with Angela Philbrook, Anthony Panebianco, Tom Roche and Brad Goodwin voting in favor.**