

# Planning Board Meeting Minutes

## Town of Lyman

April 5, 2017

**Members Present:** Vice Chairman Donald Herson, Joseph Wagner, Cecile Dupuis and Kelly J. Demers; CEO Patti McKenna

**Others in attendance:** Hollis Planning Board: Kevin Flinner, Vice Chair Joe Ponzetti, Martha Turner, Secretary; Lee Jay Feldman of SMPDC; John Rondeau, broadcaster for Hollis portion of meeting

**Vice Chairman called the meeting to order at 7:03 p.m. All stood for the Pledge of Allegiance.** He introduced the Board, CEO and Clerk. Hollis Planning Board Members introduced themselves.

**Mr. Wagner moved to allow Mr. Demers to be a full voting member for this meeting, seconded by Mrs. Dupuis, all in favor.**

### **START 7:05 PM JW GROUP LLC/JOSHUA WATERHOUSE (MAP 9 PART OF LOT 17):**

Mr. Waterhouse with Mr. Paul Gadbois, Engineer, approached the Board. Vice Chair read a letter from CEO, Patti McKenna, regarding the application and that she had reviewed their subdivision checklist. It states that she finds the application complete, with the exception, of an endorsement from York County Soil and Water Commission for the soil erosion and sedimentation control plan. It also states that the scale of the plan is 1" = 500 and our ordinance requires a scale of not more than 1" = 400. Vice Chair read a memo from Lee Jay Feldman of SMPDC regarding the "Preliminary Application of Red Barn Subdivision" which stated the Proposal, Completeness, and Design Issues for Discussion. Vice Chair said that part of the road into the subdivision is in Lyman along with some open space. All the lots proposed are in the Town of Hollis.

Mr. Gadbois prepared the plan presented. There is a note on the plan regarding Fire Protection labeled as Note #11 that reads the lots will have a residential sprinkler system. A fire tank would have been about the same price as having sprinklers in the homes, so they elected to have sprinklers in the homes. As far as the Deed Covenants are concerned, he thought he had turned them in, but can provide them before finalization. He said they may be similar to those for Blackberry Lane. He will also provide a performance guarantee to Hollis once they get road costs.

Waivers requested: Mr. Gadbois asked for a waiver for a High Intensity Soil Survey. He did provide a medium intensity soil survey. The wetlands were located on the entire property so, basically, he feels that's the most important part of the survey. The soils were identified as very sandy soils and have had test pits done which confirms this. Vice Chair said this is not our Board's issue, but ours would be the road meeting Lyman's road subdivision standards. He also said they'd had previous discussion about the utilities to be placed underground. Mr. Gadbois said this is addressed on the plan and they will go underground. They also did design the road on the plan to meet Lyman's standards, so that eliminates that issue.

Vice Chair said the only other issue that affects Lyman is the open space lot of 52,600 square feet to the left of the road. No structures will be placed on this lot. Vice Chair asked if it's addressed on the plan. Mr. Gadbois said it does say Open Space in Lyman and then he added a ten-foot buffer that connects the open space to Lot 4. Mr. Waterhouse said the lot is too small to meet building standards and Mr. Demers, Mr. Wagner and Mrs. Dupuis agreed. Vice Chair said "All that is necessary to discuss and resolved about the project is what actually affects Lyman. All remaining issues will be under Hollis cognizance."

Mr. Demers said one concern they had is that the portion of the road that is in Lyman will never be taken over by the town of Lyman for maintenance. That needs to be noted. Mr. Gadbois said "The owners' thought on this is that if they have to build it to Lyman road standards, they'd like it dedicated as a public street. Originally, they wanted to build the road to Hollis standards and keep it private. The best situation would be for Lyman to accept it as a road or go by Hollis's standards as a private road." Mr. Waterhouse said the private road standards for Hollis is an 18' wide road with 24' width with a shoulder. He feels that in the future, the owners of those homes will come back to Lyman Planning Board to try and get the road approved as a public town road. He said, "If it's going to be a private road, it should be built to Hollis' private road standards."

Vice Chair said the problem is that the Lyman subdivision standards require that they be built to Lyman's standards. It would have to go to town meeting to get the road accepted. He can see their point that if it's to be built to Lyman standards, they would like it to be approved as a public road but it would have to go to Lyman town meeting. Mr. Waterhouse said the road will cost more to build and his property values will be less. CEO said the Board has the right to waive or modify, according to Article 12.1 on page 43 of the Lyman Subdivision Regulations, the requirements which Vice Chair read out loud. If there are special circumstances, the Board may waive under appropriate conditions. Vice Chair said, if the Board agrees, they can waive those standards and perhaps require a note on the plan stating it's a private road. Mr. Waterhouse said this is a situation where a private road is probably ideal for the town because it goes through multiple towns and Lyman probably doesn't want to service that road. "A private road seems reasonable in this situation," he said. Mr. Gadbois said they can add a note to the plan and add it to the deeds. The Lyman PB was fine with this. The road would only serve five lots which will all be in Hollis.

Mr. Wagner moved that the Board waive the Lyman road standards in lieu of the Hollis road standards for access to the development, seconded by Mr. Demers, all in favor. A standard note will be added to the plan and to the covenants. Next, Mr. Wagner said the second issue to address was fire suppression which was already discussed. Mr. Waterhouse asked jokingly if Lyman still wanted to plow the road. Vice Chair said, "I don't think so. We'll leave that up to you." The issue of trash pickup was brought up by Mr. Gadbois and there is no trash pick-up in Lyman and since the lots are in Hollis, Mr. Feldman said he spoke with the trash hauler and he is in that area already and was okay with picking up for the Hollis properties. They need to work out whether they will come into the cul-de-sac or have pick-up at the entrance to the road. Martha Turner said she has seen in Hollis that sometimes owners are required to place trash at the entrance to roads, but this does not concern Lyman. The mail delivery will be worked out with the Postal service.

Mr. Feldman said that since the Lyman Board has chosen to waive the road standards, the plans will have to be re-designed to Hollis' standards. He suggested that Mr. Gadbois meet with the postal service perhaps for gang boxes and determine where trash placement will be covered. This will cover the home-owners' association, the trash hauler (McCormick), etc. This will be appropriate to be added to the plan.

Vice Chair asked if there were any other issues that would affect Lyman. He said, "Our motivation is to make sure all issues affecting us in Lyman are addressed and dealt with and we will sign off." Mr. Feldman said that the easiest way to deal with it, is if Lyman is happy with waiving any future joint meetings with the Hollis Board, they just have to sign off being involved with future meetings. CEO asked if the Board needs to vote on this. Mr. Feldman said it wouldn't hurt. Mr. Wagner moved that "the concerns of the town of Lyman have been satisfied and that we acknowledge that the continuation of the subdivision process is now in the hands of the Town of Hollis and no further joint meetings are required," seconded by Mrs. Dupuis, no further discussion, all in favor. **Completed at 7:30 pm.** Vice Chair thanked the Hollis PB and the applicant for coming in and resolving this easily. The Board recessed for four minutes to allow them to clear out.

**MINUTES:** The minutes of the February 15, 2017 meeting were again tabled to the next meeting to allow Mr. Wagner to review the audio. Mr. Wagner moved to table until the next meeting, seconded by Mrs. Dupuis, all in favor. Mr. Wagner moved to approve the minutes of the March 1, 2017 meeting as written, seconded by Mrs. Dupuis, all in favor. The March 1, 2017 workshop minutes did not need to be voted on. The March 15 meeting was never held due to a stench in the town hall.

**MAIL:** Maine Townsman magazine

**NEW BUSINESS:** Possible full subdivision on Route 35 coming in, may or may not be a cluster.

**OLD BUSINESS:** Board signed the plans for Friendship Cove Common Area and for Funky Bow Brewery. The contract zone was approved by the Board of Selectmen, has been signed and mailed to Funky Bow. Nothing new concerning a possible gravel pit application.

**OTHER BUSINESS:** Ordinance changes for the upcoming warrant need to be decided on before the due date of April 14. Commercial design standards to be discussed at a future meeting. Won't be ready for June vote.

The Board discussed accessory dwelling units. Mr. Wagner thinks the wording should be cleaned up and try again for a vote in June. Clerk told them that the ZBA voted last week to overturn the CEO's denial of an applicant's appeal for a detached accessory dwelling unit. Mrs. Single said, "The ZBA said they felt that the way the ordinance reads on 10.6 and 10.6.3 they didn't necessarily conflict with each other. They felt the wording was appropriate and that he should continue with his detached building. They didn't necessarily think the two conflicted with each other. One member of the Board is an attorney."

Mr. Wagner asked the clerk to read the wording from the Workshop minutes of how the Board wanted to word the new referendum. Mr. Wagner's recommendation was "One accessory dwelling unit shall be permitted on a lot on which an owner-occupied single family dwelling is located which

meet the following conditions.” It removes the word within and in all districts. Mr. Demers asked if the attorney is a real estate attorney since they had an opinion from MMA on this issue. Mrs. Single said she didn’t know his specialty but when she was in real estate he used to do title searches for clients. Mr. Wagner’s concern is down the road there will be a different Planning Board, a different CEO and a different ZBA and Board of Selectmen, and this should be clarified to be interpreted one way. Vice Chair agreed that it needs to be written clearer. The Clerk said the applicant had a permit to build the 2-car garage, had approval for a design and installation of a septic system, had an approval for a 100-amp electrical service which was installed and separate from his home, permit for a full bath with washer/dryer hook ups and all he needed was a kitchen sink. The CEO had denied his application.

The next time it goes for a vote it should state that this is an editorial correction as a preface. CEO returned to the meeting and given a recap of the ZBA decision and Board discussion. The Board wishes to get rid of the word ‘within.’ Even with a precedent set here, new Boards may have the same issues with a new application. CEO said the ZBA’s decision carries for new applications. Vice Chair asked if CEO was opposed to a referendum and she said she isn’t opposed to it but has heard that it would be nice to not have a referendum this year. This would be the only referendum on the warrant along with votes for Selectmen. MMA had agreed there were inconsistencies. CEO said if the ZBA said there is no conflict, any CEO must abide by their decision. Mr. Wagner would like to give it a go for clarification. Clerk re-read the wording for 10.6 as recommended at workshop as written above. Mr. Wagner read the workshop minutes for Section 10.6.3 that was recommended to say, “The accessory dwelling unit shall be located either in the same building or an accessory building to the principal structure.” Mr. Wagner moved that “the Board accept this language, recommend to the Selectmen that it be placed before the town for a vote with a preface that this is not a substantive change but only an editorial correction to the ordinance,” seconded by Mr. Demers, no further discussion, all in favor.

Accessory dwelling unit definition: Mr. Demers read definitions for accessory dwelling units from the towns of York, Saco, and Kennebunk. He asked if the Board wanted to create a definition. CEO said it is defined in Section 10.6. Mrs. Dupuis asked if they want to add A.D.U. under the Land Use Table. Board decided to hold further discussion for another time.

Set Meeting Agenda:

**AGENDA for April 19, 2017**

**7:00 Workshop unless something comes in. Discuss commercial design standards.**

**Monthly Report to Select Board:** Board approved the March report by email.

**ADJOURNMENT:** Mr. Wagner moved to close the meeting at **8:10 pm**, seconded by Mr. Demers, all in favor.

Respectfully submitted,

Irene C. Single, Clerk

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Roderick Tetu, Chairman

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Donald Hennon, Vice Chair

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Joseph Wagner

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David Dulong

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Cecile Dupuis, Secretary

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Kelly J. Demers, 1<sup>st</sup> Alt.