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YARMOUTH TOWN CLERK

OLD KING'S HIGHWAY REGIONAL HISTORIC DISTRICT COMMITTEE

MINUTES – APRIL 28, 2014

FINAL

The Old King's Highway Committee met on **Monday, April 28, 2014**, in the **Hearing Room at Yarmouth Town Hall, 1146 Route 28, South Yarmouth**. **Members present:** Chairman Richard Gegenwarth, Vice Chair Suzanne Courcier, Peter Kimball, and James Liedell, **Alternates present,** Judith Recknagel and James Stuart. **Members absent:** W. Leslie Peat, **Staff Present:** Maryclare Troiano, Interim OKH Office Administrator.

A quorum present, Mr. Gegenwarth opened the meeting with a brief explanation of how the meeting is run and an explanation of the 10-day appeal period. He then stated for the record that applicants must pick up their paperwork at the OKH office and use the stamped OKH-approved plans for all town departments. In addition, he explained that the Building Department and OKH work together to ensure compliance with the OKH-approved plans. To that end, OKH inspects at framing and occupancy permit times and reports to the Building Department whether the approved construction has taken place or if changes requiring additional OKH review have occurred. The regular meeting convened at **7:15 P.M.**

#14-A024 David and Gayle Williams (owners); installation of new windows and doors, new trim, new white cedar siding, and expansion of deck at **52 Lookout Road**. Agent present. Ms. Porter explained that they were not adding to the structure except for an expansion of the deck in the back. The siding is being changed to shingles. The windows will be changed from casement, to double hung window and they will be repositioned. The sliding door will be changed but the garage door will remain the same. Mr. Gegenwarth asked about the grill pattern and the door color. Ms. Porter explained that they will be 4/4 and 6/6 because they are narrow windows. The panes will be similar in size in the 4/4 to the 6/6. The front door is a reddish color and will not change at this time. After reviewing the application packet, Ms. Courcier moved to approve as presented; Mr. Liedell seconded. **APPROVED 4-0-0**

#14-A025 Kathleen McCabe (owner); paint front & exterior trim at **Shaker House Road**. Chairman Gegenwarth stated that the homeowner, was unable to attend the meeting, and requested in writing, that the OKH Committee Members act on her behalf. The front of the house will be painted Gray Timber Wolf, Benjamin Moore, #2126-50, white trim and black shutters. After reviewing the application packet, Ms. Courcier moved to approve as presented; seconded by Mr. Kimball. **APPROVED 4-0-0**

#14-A026 Holly June Daubent Howland (owner); replace windows at **755 West Yarmouth Road**. Owner present. Ms. Howland explained that she would like three windows the same size, so they can open up. The new Anderson windows will look the same except the grilles will be between the

glass, 6/6, same as the existing. Trim will be Azac, painted white if needed. After reviewing the application packet Ms. Courcier moved to approve as presented; seconded by Mr. Liedell.

APPROVED 4-0-0

#14-A027 Patricia Taylor (owner), Robert Taylor (agent); addition of breezeway and 2 car garage with bedroom above at **897 West Yarmouth Road**. Owners present. Mr. Taylor explained that they were removing the deck. The driveway would be in the same location but it would be extended. Clapboard will remain on the front of the house and white cedar shingles on the addition. There was a discussion on the size of the garage, but for that setting, they agreed, it was appropriate. Mr. Liedell moved to approve as present; seconded by Mr. Kimball. **APPROVED 4-0-0**

#14-A028 Town of Yarmouth (owner) Patricia Armstrong, Recreation Director (agent) install a new playground at **460 Route 6A**. Also present: Dorcas McGurrin, Recreation Commission, Chairwoman, Deborah Clark, Recreation Commission, and Joseph DuFour, Representative for M.E.O'Brien and Sons, Inc.

Ms. McGurrin stated that back in January, 2013 the Recreation Commission was approached by members of the community requesting that the playground equipment be refurbished and that a public meeting for the community to speak was subsequently planned. Meeting notices were mailed out to 38 abutters which is more than the direct abutters that are required. The first meeting was held at the Yarmouth Port Congregational Church on February 13, 2013. At this meeting I discussed the previous difficulties and hard feelings that had come out of the decision in 1990 to refurbish the playground and again in 2000, when the playground structures were removed. And I promised that whatever steps that will be taken, will be with a consensus. We are looking to do this project in phases, first would be the playground equipment, an archaeological review, and landscaping, including large trees and benches.

Present at the meeting was a representative from O'Brien and Sons, Inc. which is the current vendor for all of Yarmouth's playgrounds. This company was awarded the State Bid. And because there are 351 cities and towns, in the Commonwealth, the state has allowed a blanket, procurement on certain items.

At that meeting we listened to the community, abutters, and young parents and heard that they did not want the playground to exceed the current footprint. The basketball court should be resurfaced and with one stanchion, no additional parking, no public restrooms and a pleasing structure that would be acceptable to the OKH Committee.

At subsequent meetings, in March, 2013 we took the communities ideas and developed a plan that was approved by the majority of the April, 2014 Town Meeting. And at one of the meetings we actually staked out the site, showing heights and widths of the structure. And what OKH has before them this evening is the plan that was developed. The colors selected were the Acorn and Fern and there is a copy of that in the packet. Ms. McGurrin noted that as for the abutters that are here tonight, they have not seen this plan, as there was not enough time, to share it with them, before the last meeting and this meeting. Ms. McGurrin stated that at this time she will turn the meeting over to Mr. DuFour from O'Brien and Sons, Inc., who will answer any questions that you may have about the materials themselves.

Mr. DuFour stated that he is the Manufacture's, Representative of Landscape Structures. Mr. DuFour explained that the picture shown represents the proposed color scheme, with the Acorn and Leaf Green. Mr. DuFour presented the OKH Committee with samples of the materials. And went on to explain that Permalene would be used for the panels on the play structures is used to

protect the children from falling outside the structure. Permalene is a recycled material and will be used throughout the structure. Spec Sheets will be provided showing the carbon footprint and the amount of recycled material used in this playground.

Mr. Stuart asked if this is HDPE (*High-density polyethylene*) and if the entire panel was.

Mr. DuFour stated that the inner portion is recycled and the outer portion is virgin.

Ms. Courcier asked for a sample of the ground cover.

Mr. DuFour provided a sample of Fibar, ground cover. And, explained that it is **ASTM** (American Society for Testing and Materials) Tested, and **PEMA** (*Process Equipment Manufacturers Association*) Certified, and that this material will come with a Certification Certificate when it is delivered from the manufacturer. In addition he explained that the Fibar color will darken over time, just from wear and tear and being out in the elements. Mr. DuFour noted this material is the #1 used safety, surfacing for playgrounds. It is designed to absorb impact if a child was to fall from a structure or a swing. The depth of the material is based upon the fall height of the structure. This structure has a 72' fall height. We will put 12" of surfacing to absorb the impact. The 12" is a little more than what is technically needed, as we would only need 9". This material will compact over time. And in a number of years you will have to put more material on top of the surface to bring it back to that 12" mark. This is to prevent the largest amount of injuries and prevent any fatality that could occur. This material is designed to be free of any chemical and resists insects.

Ms. Courcier and Mr. Stuart had questions about using wood chips, sand and about the height of the structures.

Mr. DuFour mention that it is recommended that you should not use large wood chips as they do not absorb the impact and are not tested and certified to absorb fall height. And that sand is ok for up to four feet, the National Standards allows up to four feet, but the height to the floor of the proposed structure is 72" (6ft.)

Mr. Stuart stated that they wanted four different views of this structure so that we may see the heights.

Ms. McGurrin stated that the highest structure is actually 15 feet.

Mr. Stuart asked if Ms. Armstrong was present, as she is the one who signed the application.

Ms. Armstrong explained that as the staff person assigned to the Recreation Commission, which is appointed by the Board of Selectmen, I was authorized to sign the application for them. The Recreation Commission asked to make the presentations this evening. But I am here to support them and happy to assist.

Mr. Stuart asked if this is acceptable with the OKH Chairman. And Mr. Gegenwarth stated that it was acceptable.

Ms. Recknagel stated that we would like to see a map of the lot, elevations and a landscape plan. The elevations are very difficult to read.

Ms. McGurrin stated that on the page that show Google Earth, you will see we are staying within the existing footprint.

Mr. Liedell stated that they are staying within the footprint and do not see a problem with it.

Mr. Gegenwart stated that the plan does show elevation and explained that the swing is 38' long, the center section is about 20', which is not terrible long. The widest section is the back part and if you take off the ladder, it is about 19' by 42' for the whole area. The height is about 10' tall for the smaller children's structure and 15' for the older children. The platform that they walk up to is 6' tall, a 6'x 6' area with about another 3', because of the roof pitch. We are only talking, about 9' overall.

Mr. DuFour stated that the way the equipment has been certified, tested and designed to meet demands of various age groups. They are designed to abide by the National Standards. And typically for a public playground you have children of all age groups.

Ms. McGurrin addressed the question about landscape, and stated that it was to be the next phase, and there are people who are willing to donate various trees, such as Copper Beach Trees and so forth. We thought we should have the playground in place before, so as to know the placement of the trees for shade. One of the concerns is that it is a wide, open sunny place, and we will have some older trees, and screening, green cover inside the fence for safety reasons. And it was agreed by all that right now it looks untended.

Mr. Gegenwarth wanted to know if they have a schedule. If they were to get approved by OKH then we would want to know when the next phase of landscaping would be happening.

Ms. McGurrin stated that if this was approved today then the landscape plan is our next step. And as far as the playground itself is concerned it has been approved at the Yarmouth Town Meeting and we had a complete approval by the Town Selectmen for this plan. And we will be receiving funding effective July 1, 2014.

Ms. Courcier stated that she thought the next step was for the archaeology.

Ms. McGurrin stated that they have already looked into the Archaeology. We had an open meeting and the Archaeologist for Taylor Bray Farm, Craig Chartier was present. And it was quite eye opening to me, that he did not feel that there was anything of Archaeology merit on the Common. The land has all been disturbed. He did suggest a Ground Penetrating Survey of the Meeting House that had been there. And so we are already looking into that.

Mr. Gegenwarth stated that if the playground was in place then it is easier to go to a donor for money or trees.

Mr. Stuart wanted to know if there was this kind of equipment in any Historic Districts.

Ms. McGurrin mentioned the Johnny Kelley Park, in the town of Dennis, And Rainbow Array in West Barnstable.

Mr. Liedell mentioned the present condition of the playground and that it needs to be greatly improved.

Mr. Gegenwarth stated that at this time we like to open the floor up for any abutters that would like to speak.

Mr. Peter Hughes, 455 Route 6A. Mr. Hughes stated that they are abutters and that we should emphasize the importance of the fact that this is a Common and has been for over 300 years. And then proceeded to give a handout to the OKH Members as he referenced that it was here on the Common that Yarmouth declared their independence, from the Crown of Great Britain. He mentioned his concern, that this is in repetition of what happen over 20 years ago, which led to a very catastrophic situation. There could be public safety problems and danger of high levels of

traffic on Route 6A. He spoke of the different issues that they had such as, parking, lack of bathrooms, and problems with kids, illicit behavior and drug deals. It caused such a stir in town for the abutters and for the Yarmouth Police. When we first discussed this, the opinion was for it to be made of cedar and put in sand and to be a park for younger children. Mr. Hughes mentioned the different problems, the size of the structure, the material, the screening from the traffic and adequate space. The park is so close to people's houses. And, wanted to know, if it was even prudent to put a playground there, as the land may be contaminated with arsenic from the previous structures that were there. Mr. Hughes stated that he would ask the members of the OKH Committee to decline, turn down this application. And for two reasons, one being that this type of intrusion on people's lives is not appropriate in an area that has such a significant historical function. The other reason is the Board of Selectmen and various officials met in 1999 and they were aware that the real problem was the impact on the abutters, the neighborhood and on the Common.

Ms. McGurrin asked to speak and stated that they are not adding more parking, and the issue he is speaking about was 15 years ago. Also I would agree that back in February the majority of the abutters were clearly against the playground. And some of those abutters are present tonight, and by the time we came to our March meeting we had a better consensus on that.

Mr. Hughes stated that we had those problems back then and they will happen again. There was no extra parking before and the result was catastrophic. Mr. Hughes thanked the OKH Committee.

Ms. Courcier asked if there where anyone here who has children and would like to speak.

Ms. MaryAnn Agresti, 17 Point of Rocks Road. Ms. Agresti stated that she is not a direct abutter, and that she does support having a playground. But does not, support the design and specification, of the products. It is a very historical site and should require a unique design solution. We should integrate some historic features into the play structures. Ms. Agresti handed some information to the Recreation Commissioners regarding different styles and information on play structures. Ms. Agresti thanked the OKH Committee.

Mr. Will Rubenstein, 20 Linnell Lane. (owner of Camp Wingate Kirland) Mr. Rubenstein mentioned that he has a 9 year old daughter, and a 3 year old daughter. He then stated that he is in support of having a playground and, that it be multipurpose structures for different age groups. The Recreation Commission has had a series of meeting in which they tried to incorporate everyone's feelings. I urge you without violating any by-laws, to please keep in mind there are families who have been crying out for an updated playground for over 10 years. This has been in process for over a year and a half and at some point this has to come to an end and then the beginning of reality. So I ask that you would approve this application. Mr. Rubenstein thanked the OKH Committee.

Mr. Gegenwarth mentioned that there was an article in the Boston Globe on playgrounds. And that the first playground ever, was here in Boston. And that playground designs have changed over the years. They talked about sand, playing and learning. There are many opinions as to what direction we can go in. The colors, we have talked about and discussed and what would be appropriate for a Historic Area. And we wanted these structures to not have bright colors but be muted and look like weathered wood. The color chips that we have here tonight are keeping with what we requested. They will not stand out and with the landscape around it, it will all blend in. And as for the location this site was deeded to be a playground.

Ms. McGurrin stated that this property was given to the Town of Yarmouth in 1924 as a Playground and Common.

Mr. Gegenwarth stated that there is no question that there should be a playground there. I think you have come a long way and you could go on and on forever with designs. But at some point you have to do it and see how it works. When you dig out a foot of sand, you will be removing a lot of the contaminated soil and it can be tested beneath that, and it can be cleaned up.

Mr. Liedell stated that he would like to make a motion.

Ms. Courcier stated that there is someone else who would like to speak.

Mr. Duncan Oliver, 12 Damaris Drive. Mr. Oliver stated that from his home, he is a visual abutter. And right now the playground is an embarrassment to Rte. 6A. Route 6A and the entire Old King's Highway is a living Historic District. We owe it to the people, to put up something that is appropriate. I have been at all the meetings and the Recreation Commission has listened well. I am tired of all the delaying tactics. The park has been there it should be put back in. It should be carefully thought out and one that takes on the character of the neighborhood. Also I have not seen problems with kids. It is time that we start trusting some of the boards that have done due diligence. You will find that 95% of the neighborhood is very much in favor of this project. Listen to the neighbors. Mr. Oliver thanked the OKH Committee.

Ms. Courcier stated that there is another person who would like to speak.

Ms. Patricia Sherman, 1 Minnetuxet Way. Ms. Sherman stated she and her neighbors have to pass this playground all the time. And that she was one of the Founding Members of the Friends of the Common. And mentioned that a previous speaker Mr. Hughes is against the playground but as a matter of record he is mentioned in an article from the Register Newspaper, September 25, 2003 as being in favor of replacing the playground. Most of the neighbors are in favor of the playground and it is nice to see young children in the neighborhood. Ms. Sherman thanked the OKH Committee.

Mr. Gegenwarth stated that he would now hear the motion from Mr. Liedell.

Mr. Liedell stated that he would like to make a motion for the application be approved as presented.

Mr. Gegenwarth asked if there is a second to this motion and there was not.

Mr. Gegenwarth stated for discussion purposes now, I ask if there is a schedule for the landscape plan and when will it start. And explained that for other OKH applications, we quite often require a landscape plan and or a date as to when it will be started. It was mentioned that it is not possible to do landscaping because of the weather, but you would need a date as to when it would begin.

Ms. Courcier stated that she would like to see a complete package that specifies if it is done in phases, when will it be started and also see a site plan and elevations.

Mr. Stewart stated that he does not know if we could allow this equipment to put there legally.

Mr. Gegewath stated that is not our job.

Ms. Courcier stated it is for the appropriateness in setting. But I would like to see a complete package as this is an important site. And it could be a real enhancement.

Mr. Gegenwarth stated that a lot has gone into this design and also has been modified at our request. And explained that we have to have drawings showing the structures and we have that. Elevations are lacking and the landscape plan is lacking. Elevations could be done by tomorrow as I am sure you have those in your place of business. The landscape may not be as easy to come up

with but it could be ready in two weeks. We could table this application so that the elevations and landscape could be presented.

Ms. McGurrin was not sure if they could come up with a landscape plan or if we even have the funds for it. Ms. McGurrin, Ms. Armstrong, and the OKH Committee had a discussion on the funding for the landscape plan and schedule. And after much discussion Ms. Armstrong stated that they would be able to have the funds for the landscape plan.

Ms. Courcier moved to Table the application without prejudice, to the next scheduled meeting on May 12, 2014 for clarity on landscaping and elevations. Seconded by, Mr. Stuart. **TABLED 4-0-0**

EXEMPTIONS AND OTHER BUSINESS:

MEETING ADJOURNED:

Mr. Liedell moved to adjourn at 9:50 pm, Mr. Kimball seconded. **ADJOURNED: 4-0-0**

NEXT MEETING: MONDAY, MAY 12, 2014

Respectfully submitted,

Maryclare Troiano, Interim OKH Office Administrator.

Minutes approved at the OKH meeting on June 9, 2014.

[On a motion by Peter Kimball seconded by James Liedell, the Old King's Highway Historic District Committee approved the minutes of April 28, 2014 as amended by Suzanne Courcier via email (June 6, 2014), with Richard Gegenwarth, Peter Kimball, James Liedell, John Stuart and Judith Recknagel voting affirmatively and W. Leslie Peat abstaining.]

Respectfully submitted by:

Mary Waygan, Administrative Assistant

13 JUN 13 11:45 AM REC'D



PARMOUTH TOWN CLERK