APPROVED MINUTES

Planning Board Public Meeting

Tuesday, May 25, 2021 6:00pm

North Shore Community Centre

PRESENT:
Chair Krista Shaw, Mayor Gerard Watts, Nancy MacKinnon, Melissa Paquet, Joe Doran, Janet Ellis, Valerie Payn, Charlotte Vriends and CAO Stephanie Moase. Planning Consultant Samantha Murphy and Development Officer Michael Olubiyi.
Council members Derek Cook and Peter Vriends
Regrets Eileen Bain and Jason Doyle
30 Members of the Public

1. **CALL TO ORDER:** 6:00 pm by Committee Chair Krista Shaw.

2. **NEW BUSINESS**

Chair Krista Shaw introduced Planning Consultant Samantha Murphy from Samantha J Murphy Consulting. Samantha provided an overview of the changes made since the last Public Meeting in November the most significant being the removal of the reconsideration process.

Samantha opened the floor for Public Feedback and representation.

Kathy Thompson- Stanhope- Hello, my name is Kathy Thompson and I am from Old Sam Rd, Stanhope. I would like to thank Planning Board for your long hard work with these Official Plan and Land Use Bylaw drafts. I also appreciate the opportunity to express concerns at this public meeting.

My first concern is a SIGNIFICANT CHANGE from Draft 2 to Draft 3 of section 3.7 of the Bylaw regarding ON-SITE SERVICES. In Draft 3, the requirement has been reinstated for a licensed professional engineer to design and certify an on-site sewerage disposal system for lots that do not meet the provincial lot size standards. In Draft 2, the system could be designed and certified by a licensed professional engineer, OR by a licensed septic contractor who carries a minimum of $2 million in professional liability, and errors and omissions insurance. This is a significant change which is very costly to owners of non-confirming lots.
It is my understanding that both licensed septic contractors and professional engineers are authorized to sign the Certificate of Compliance on the installation of an on-site sewage disposal system. The standards or specifications are the same regardless of whether the Certificate of Compliance is signed by a licensed septic contractor or a professional engineer.
So what is the issue that Planning Board is trying to address with the requirement for design and certification by a licensed professional engineer? Is it liability?
If that is the case, is it NOT SUFFICIENT that a licensed septic contractor provides proof that they carry professional liability insurance with respect to signing off on these certificates? Why burden the property owner with extra added expenses to have to hire a licensed professional engineer who carries the same or similar liability insurance?

And what about property owners who have existing old septic systems which need replacement or repair? They too will incur a huge burden of extra costs for an engineer designed and certified plan. Will this be too much financially for them to even fix a problem, or lead them to not bother and continue with old leaky systems?

This requirement to have an engineer approve the septic system is overreach, over regulation, and adds unnecessary additional costs for owners of non conforming lots. This requirement also goes over and beyond Provincial regulations. And it is the Province that trains and provides the licenses to these contractors.
In the end, it is still the licensed septic contractor that does the actual installation of the sewerage disposal system. Is the issue that this Board doesn't trust these installers to comply with regulations for installation? Or is it liability?

It is highly recommended and encouraged that Planning Board change this section to revert back to the Second Draft (which was changed due to public feedback in opposition to the requirement for the involvement of a licensed professional engineer). Licensed septic contractors who carry a minimum $2 million in professional liability, and errors and omissions insurance, and NOT just professional engineers, should be permitted to design and certify on-site sewerage disposal systems for non-conforming lots.

CONCERN #2
The existing Land Use Bylaw currently in effect states in section 16.7 on PARKLAND DEDICATION that (1) A person seeking subdivision of a lot into two (2) or more new lots shall be required to dedicate and convey to the Municipality 10% of the lot area for recreation and public open space purposes.

In the proposed bylaws, Planning Board has loosened the requirements so that those who own larger parcels of land do not have to dedicate parkland unless they subdivide into 5 or more lots, instead of 2 or more lots. The requirement to convey parkland to the Municipality has also been reduced from 10% down to 7.5%.
It is great on the one hand to encourage more development by lowering requirements on parkland for those people who own larger parcels of land. However, on the other hand Planning Board is discouraging property owners from building on existing approved non conforming lots by increasing costs for engineer certified sewerage systems to people who have invested a lot of money purchasing their properties.

Thank you and we trust that these concerns will be taken into consideration with favorable response.

Barb Smith - Stanhope- I, too, would like to give thanks because I know that council and yourself and others have put a lot of work into this exercise. I know this is a very difficult exercise to undertake.
I was alarmed when I read it and so my first comment is a question, because I am concerned that maybe I am over reading what some of the changes are and what the implications of the changes are. So when I looked at the second draft and then I look at the third draft and I saw the criteria as it relates to securing a development permit on a private road and it made me, or it appears to require that I go to all the existing lot owners on my road and have them enter into an agreement that has never been put in front of them before, in order to allow me to secure a permit, I have a real issue with that. So Am I misreading that or is it intended that if I have a lot on an existing private road I can only get a development permit, if in fact by securing consent from all of my neighbors, who may or may not like me.

Consultant Reply
Consent is not about whether they approve of what is being built. There are other conditions, ensuring there is an agreement regarding the maintenance of the road.
Challenges of a private road is that over time there will be different property owners with different standards and expectations in the maintenance and clearing of the road. Ensuring there is an agreement to properly maintained and these properties can be developed safely.

Barb Smith
I appreciate that.
I do live on a road where we do have wonderful arrangements with our neighbors and our road is very well maintained and I totally would appreciate if it was being implemented for the development of new areas where there were new private roads going in, which doesn't appear to be an issue here because we are not allowed to have private roads anymore. I have a huge concern with asking someone who wants to build their cottage on their lot, that they bought, to have to go to their neighbors because effectively what this does is gives all the power to the neighbors to determine whether you get a development permit or not and it removes it from council. I just don't know if it is something reasonable to implement on a retroactive basis. We all have our lots, they are all legal conforming lots, they have a legal right of way onto a private road, but now I can't get a development permit?

Consultant Reply
Planning Board will take a look at your comment.

Barb Smith
Second comment.
Which did exist before, but when I looked at it and considered the impact that it would have not only on me personally, but on a number of other people and I will say, on the peninsula, because it is serviced almost exclusively with private roads that have been in place forever and there are still large parcels of land on those private road, the development of them and by development, I mean, subdividing them and creating new lots, would not require a new right of way being created, so no new roads would be created. But right now there would be a complete inability for someone to create another lot, to subdivide a lot on a private road, I see a huge unfairness in that. If I have three acres that are on a private road and I can create a 1+ acre size lot that is not going to be serviced by additional private roads, I see a huge unfairness. I looked at the map and I saw a number of parcels severely impacted by this. I am not talking big development I am talking about creating a lot.

Consultant Reply
Provisions about subdividing on private roads that is something that the planning board and council will have to look at. Many municipalities have restrictions about subdivisions on private roads.

Barb Smith
We currently reside in a community that has the most prohibitive subdivision requirements now with the 1 acre minimum. We are talking about creating 1 acre minimum lot sizes, we are not talking about carving up a piece of land into a great deal of lots. I think about the people, myself included, that are impacted by this, it is substantial and it just does simply mean you can't take your 4 acres and give your child a lot.

When you have a 1 acre lot minimum already in place, you have done a great deal to restrict development in a particular area and that is what has been done here. Has been done for quite some time. I look at 2014 and what was in place then and I think this is being very fair because it did allow minimal development on private roads for 1 acre lots that were going to impact greatly what already exists. We have an area in this community that is heavy serviced by private roads, when you buy on these private roads, you buy the risks associated with that, and that is the maintenance of it. And I don't know if that is a real concern that council should have. Certainly going forward when you are looking at new development, absolutely it is a consideration, but not when you are looking at existing areas that have always been serviced by private lots, it is a real concern for me. I am asking council and planning board to take this under advisement.

Wade MacLauchlan- MacMillan Point, West Covehead

I recognize all the work that has gone into these successful drafts and considerable amount of time to develop the documents and the intensity of the process and the engagement of the Community.
Maybe I missed this in earlier drafts, but I read the current draft, and I am not objecting to the principles of this, the provisions regarding setbacks in areas where there are water courses or water front. Let me refer to that specifically. Did I miss this all along or has this been added in draft 3, let me assume that it has? I will speak to a number of points that planning board or Samantha or council will be able to address. Overall, we can see through successive drafts and feedback through the Community a number of measures that have been taken to clear up ambiguity.
In the provision that has to do with wetlands and watercourses there are a number of points that could benefit from some greater clarity.
For starters, let me say that this is an area where there will be controversy, people have paid high prices for waterside/view or to be near water courses.

First point: To confirm a set back from what? From where? Is it from the property line? Is it from the top of the bank? Median highwater mark?
In an area where we live it will matter, this would matter quite significantly. We were actually the first subdivision in the province in 1998. The property lines of the owners who are adjacent to the water are setback 60 ft from top of bank, so if the owners are going to be told that they have to be another 75.5 ft or 60 times the erosion rate back from their property lines, many will have lost the benefit of the buffer in the first place. I strongly urge the start of the buffer to be the tole of the bank or the medium highwater mark and not the property line.
Second Point: It is worth thinking about whether this concern, which is really about coastal erosion and rising sea levels, pertains to all bodies of water that will fall in the definition of water courses. People may own a creek, some are well away from any tidal activity but as it currently reads you could possibly be caught by these setbacks, if they are, I'd be wanting to say they are outside the rationale/principle for adding this setback in the first place.
Third Point: Where it says it will be 75.5 ft or 60 times the historical rate of erosion that is determined by the Provincial department that does that, those of us that have been around the shore, as I have my whole life, will know that you can get erosion on the northwest face of your property and not on the northeast face. Something I have learned from experience from going and living out at the end of the point, that is the best place to be, the point didn't get eroded. The main point is - I strongly encourage further work on this to be very clear, because it will be subject to dispute, about how this is counted, who

is doing the counting, historical rates and over what period of time and what can the Community do to give people or property owners or are in the neighborhood as much notice as possible. I accept the principal, the sea level is rising, we are having more storms and people should build where it is safe to build but there are a number of ways where I think it could benefit and avoid disputes with some clarification.
Further point to leave with planning board and council. One issue that came up partway through the process was about height restrictions. In our area on full sized lots, lots bigger than an acre, lots that have a buffer zone, lots that have the bay, lots of ways which they are not crowding anyone, we have a 30ft height restriction. On the lots that are smaller we have a 1.5 storey height restriction through covenants. This is all about scale, proportionally, neighbors to neighbors, I don't think anyone would say we are living in tiny homes. Wondering if council and planning board could benefit from taking a look to see just how many properties we currently have where the issues arise on smaller lots. How many we have now that are more than 35 ft.? You would be surprised at how few there are and of those, how many are on undersized lots? If we can learn/go incrementally or if we can be informed the best we can and scale proportionally, neighbor to neighbor and it doesn't put an undue burden on the nature resource and the capacity of the land it is easier to go step by step incrementally than it is to go all the way and march back. Thanks.

Consultant Reply
A provision was added after the November meeting and is in the new draft for heights restrictions.
Clarity on setbacks will be looked at. The calculation will be the same.
Coastal Erosion rates and different types of water courses will be looked by the Dept of Climate Change.

Gaylene White- Bayshore Rd, Stanhope
My concern I think is regarding transparency. We have had recently a disagreement, whatever, and I think it stems from the people who weren't advised. We weren't notified what was happening. Right now currently applications are not posted and as a result we can't really talk about it until the Permit comes out, and by then it's really too late. And so it might just be, I think in Cavendish Municipality, I could be wrong, but I believe they post every application that comes in and people should be made aware if they are in the immediate vicinity and it might stem less controversy.

Consultant Reply
There are some Municipalities that have been posting every application they received, there are some privacy concerns with that, so Municipalities have moved away from that. There are only one or two doing it that I am aware of. The Planning Act does require that all decisions are posted within 7 days and there are new requirements for the sharing of information under the MGA, there are Access to Information regulations that go along with that. There will always be some information that is personal and private that shouldn't be shared. The act of planning and regulated land use is a balance between the community understanding the objectives and goals of the land use regulation system with the predictability of someone being able to apply. So it is not common to notify everyone in the vicinity of the development that an application has been received because the bylaw and the official plan policies are there to tell people what should happen. That is not perfect, there are times definitely where by the time someone has appealed that the permit has been acted upon, but there is that balance of the ability to be able to functionally administer and deal with applications and not provide any false sense of discretion. That might not be what you are getting at but I know there are some places where there is a sense that it

then does become a community decision on whether that application itself should be approved. At the end of the day that's what the Plan and Bylaw are there for. If someone is looking for the rules to be changed, that is where the Bylaw amendment process comes in. That probably doesn't give you what you want but it does give a little explanation of the process and how information is shared.

Kent MacLean- Stanhope

My name is Kent Maclean and I have lived at 3553 Bayshore Road in Stanhope with my family for the past 20 years.
Before providing my comments, I want to remind the Planning Board Committee there is a Conflict of Interest, as declared by the Municipal Council, for Mayor Watts involvement or attendance in any discussions or presentations regarding this property.
With regards to the proposed amendment to the Draft 2021 Official plan, the change to Section 3.11 Appeals – now to be escalated to IRAC is a positive amendment.
IRAC will be the best structured to hear appeals on development permit and subdivision issues.
This removes any bias in the process.

My wife and I have attended all meetings for the 2021 Official Plan where we heard consistent messaging from Municipal representatives about how important transparency and public input is in this process.
During this Official Plan process, we have continuously written to the Municipality in an attempt to meet and discuss a Zoning issue.

We have not had any meaningful response from these communications.
This 2021 Official Plan process has not been a fair and transparent approach for Municipal Government processes.
In fact, I am objecting to proposed Zoning Map changes in the Draft 2021 Official Plan and Land Use Bylaw.
At a Public Meeting in the fall of 2020, I stood up and provided input on Zoning Changes, this was met with a response from the Consultant (Hope Parnham) .... "this is a public forum, and we will meet one on one to discuss your private issue" ... well - that meeting never happened, even after multiple attempts on our behalf to establish such a meeting.
The Official Plan Committee that is managing the 2021 Official Plan process has the authority, and the duty to rectify any mapping errors for properties during this process.
We are objecting to and appealing the proposed Zoning changes to our Residential property.
A meeting with the Chair of the Planning Board and the CAO would be prudent to address the Zoning error and procedural irregularities, prior to the Rural Municipality of North Shore Draft 2021 Official Plan being finalized and sent to the Minister for review.
In conclusion - A collaborative approach in this matter will save all parties considerable time and money and allow the Municipality to correct its error and revisit the decision without involving lawyers, IRAC and if necessary, escalation to the Supreme Court of PEI.

Tim Banks- Grand Tracadie

My name is Tim Banks. I am a developer and own property in Grand Tracadie called Blackbush, since 1984.

I am in the process of developing a resort development, I spoke here in November. I want the Municipality to designate a zone for resorts. Because I didn't feel that my development fit into the category related to Tourism or even the category related to Commercial, examples are the hotel is 61 ft tall, there are 25 other issues that relate to the development I currently have underway.
I received my first subdivision approval for 58 lots in 1993, I put my infrastructure in, I surveyed and pinned all my lots, did everything, submitted all my documents to the province, got preliminary approval and yet on your zoning map my 58 lots don't show up.
I look at the zoning map where I have 13 properties and 21 environmental permits from the Province and I can give you copies of all of that, yet my property is designated on your zoning map as wetland.
I have written to the administrator on 5 occasions since December 4th to discuss this topic and meet with the planning officer, as I had asked to do in November and I had to remind them again a week ago about setting up a meeting, I am going to meet with them on Thursday at 4 o'clock, I understand. But I have to have my response to this draft a day later, so from 4 o'clock on Thursday I have to have a draft the next day in terms of my response. So like the last gentleman that spoke you can be assured I will be showing up at IRAC or where ever I have to go because I don't think anyone is listening.

3. ADJOURNMENT: 7:03pm

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SIGNED: Krista Shaw, Chair DATE:

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SIGNED: Stephanie Moase, CAO DATE: