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3                                   New Castle Planning Board  
4                                   Wednesday, May 25, 2016, 7pm  
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7   **1. SITE VISIT, 7pm, Tarbell Property, 148-152 Portsmouth Avenue, Tax Map**  
8   **16, Lot 8&9. Work session on proposed subdivision/lot line adjustment**  
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10 **2. Work session on proposed subdivision for applicant, Last House LLC, 120**  
11 **Wild Rose Lane, Tax map 3 lot 8b.**  
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14 **Members Present:** Chair Darcy Horgan, Tom Hammer, Rich Landry, Bill Stewart,  
15 Geof Potter  
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17 **Members not present:** Kate Murray, Margaret Sofio  
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19 **Others Present:** John Chagnon of Ambit Engineering, Tarbell family members  
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21 **NOTES TAKEN AT SITE VISIT:**

- 22       • For tax purposes, there are two lots with a common owner.
- 23       • The house was three units, which essentially straddled the old lot line, two
- 24       units on one side and one unit on the other side of the line. This was due to
- 25       family inheritance decisions of long-standing.
- 26       • In the past, the drive and the dock were held in common within the family.
- 27       • The lot line initially assigned to the property divided it in a North/South
- 28       orientation. The Family would like to subdivide the lot in an East/West
- 29       orientation, to allow for the construction of a replacement home on the lot
- 30       adjacent to the road and potentially a duplex on the lot adjacent to the river,
- 31       with the common drive providing access to the lot on the river.
- 32       • The question was raised regarding the present drive, which would be
- 33       widened: does it become a street eventually? It is believed it will remain a
- 34       private right-of-way, but it needs the width and length upgrades to allow the
- 35       back lot to have a 100' frontage.
- 36       • The "front" house will not be centered on the lot but will be further to one
- 37       side, potentially providing site lines to the water if the duplex is ever
- 38       constructed.

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40 Upon returning to the Town Hall, feedback was given to John Chagnon, following the  
41 site visit of the Tarbell Property:  
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1 Is it one lot or two? The former configuration had two lots, split down the middle  
2 from the road to the river. While this property is now taxed as two separate lots, it  
3 has been merged into one lot.

- 4 • Mr. Chagnon has a deed from the town; which talks about one piece of land  
5 and which gives its' dimensions, and was from Edmund Tarbell to the Tarbell  
6 Trust; the date is 2013. The actual merger may have occurred prior to that.
- 7 • With all these considerations, it was decided that the action to be taken  
8 should be a subdivision of the one lot.  
9 The present plan says lot line to be eliminated. Legal documentation would  
10 be a deed not registration.
- 11 • There is an easement placed on the lot shown on plan, which is located by the  
12 river.
- 13 • There is a walkway at the end of the driveway.
- 14 • The plan calls for upgrading the 20 foot driveway to a 30 foot driveway and  
15 extend the private right-of-way (ROW) 100 feet into the property. The intent  
16 of this upgrade is to make a lot with 100 foot frontage as required.
- 17 • Question: Can you make a lot off an easement? ROW included (private).  
18 Intent of 30' ROW, 100' into property for 100' length is to make the lot.
- 19 • Mr. Chagnon noted that he is looking for feedback in subdivision regulations,  
20 not zoning requirements. The members discussed the problem with making  
21 30' paved ROW would be loss of mature plantings which provide screen as  
22 the drive exits onto Portsmouth Ave.  
23 The Members also discussed the needs for providing septic to the proposed  
24 Lot 2, which would need state approval for septic in Lot 2..
- 25 • The question arose, does the zoning ordinance allow either septic or sewer?  
26 Is there specific wording in the zoning ordinance?
- 27 • Has sewer on lot 2 been looked at? There was a septic/leach field at the back  
28 of the original property.
- 29 • There was a washout in this area which has been filled in and rebuilt.
- 30 • Is this in the flood zone? Yes, at the river.
- 31 • Need test pit to see if soil is adequate for septic. If not okay, then sewer.  
32 Mr. Stewart asked Mr. Chagnon to explore this issue with the family again.  
33 From a conservation point of view, sewer would be more desirable.
- 34 • At one time, the lot had sewer and a pump station. There was a problem with  
35 the old lot with the pump station: there was not a septic tank, the sewage  
36 went directly to pump station and thence to the sewer lines.
- 37 • Mr. Stewart asked if the owners would have to apply to the state Dept. of  
38 Transportation for a curb cut. The answer was no, because it was two lots.
- 39 • Ms Horgan asked if the intent of the application is to request a minor  
40 subdivision so that frontage will be created?
- 41 • The planning board members would like to see easements and anything  
42 having to do with septic in the plans.
- 43 • After the 100' x 30' ROW is completed, the plan is to taper the route so that it  
44 becomes a driveway for people at the end.

- Following the loss of the house in the fire, the intent is to replace it within the required time frame (a year). This will mean some of the work will be done concurrently. The family's first priority is to replace the original structure within year. They are not planning to build a duplex on Lot 2 at this time. Subdividing the property now, will allow for smoother process in the future.
- The major stumbling block at this time with the subdivision seems to be with the septic/sewer plans for Lot 2. The replacement of the house should be able to begin; subdivision can actually wait, while septic/sewer questions are resolved.

**2. Work session on proposed subdivision for applicant, Last House LLC, 120 Wild Rose Lane, Tax map 3 lot 8b.**

**Others present:** Tom Keane, Keane and Macdonald, PC, representatives from Last House LLC

. Currently six acres, with frontage and a house facing Little Harbor (LH). Access is provided by a drive which crosses an adjacent lot (and can continue to do so, although it is not in a deed, it is perpetual). There are wetlands on the lot and shore frontage on LH. The proposal will create two lots, one at the front where a new house would be constructed and the second lot which will contain the present house.

- Issues to be considered have to do with amount of frontage on Wild Rose Lane(WRL), whether the proposed creation of a private ROW from WRL satisfies the requirements for a subdivision, whether approvals could be granted for construction of the drive which will impact wetlands or wetlands buffers.
  - There is a water main on the street, there is no sewer line in this part of New Castle.
  - Some water mains cross the property presently; the new house location on the proposed lot closest to the road would tap into the water main on WRL and a water line crossing the property would continue to provide the abutter on the back lot with water.
  - On the plan there is no delineation between poorly drained and really poorly drained soils. Most of this area is believed to be "very" poorly drained, although test pits would confirm whether a septic system can be constructed.
  - Need to have test pits to see if there is proper lot size.
  - No part of the "very" poorly drained can be used for construction; 25% of poorly drained can be used, per town regulations.
  - Studying the present plan suggests changes to the lot line can get around the requirements for a bigger lot if the soils are mostly "very" poorly drained. A change in the angle of the lot line will accomplish this.
- Ms. Horgan asked about flooding on this site? Zone ae, elevation 9, quite a bit of area near existing house that is in the flood zone.

- 1 Ms. Horgan noted this plan is different than one that went to the Zoning  
2 Board of Adjustment (ZBA). Previous plan had the newly created front lot  
3 with 100' of frontage, while the back lot did not have 100' of frontage. They  
4 were denied relief from the ZBA on the frontage issue.
- 5 • Establishing a ROW through the front lot to the back lot will give the back lot  
6 100' of frontage.  
7 What is left is over 100' ROW on WRL.
  - 8 • Access to the back lot will need to be paved 20 (30??) feet wide and will need  
9 to stretch back 100 feet to give the back lot 100 feet of frontage on that  
10 private ROW.
  - 11 • The members felt that this extension was creating an unnecessary  
12 disturbance to the site.
  - 13 • Since some of the questions discussed would depend on action of the ZBA, it  
14 was suggested that those questions should go before the ZBA before coming  
15 back to this group.
  - 16 • The applicants are looking for some guidance from the Planning Board but  
17 variances are needed from the ZBA. Previously, the ZBA had suggested  
18 further searches for an alternative for the first plan; this is that proposal in  
19 the present second plan.
  - 20 • The intent of this proposal would be to see a vacant lot created and allow  
21 construction of a home on it.
  - 22 • Members of the Planning Board would like to see a proposal which has far  
23 less impact on the land, one in which it would not be necessary to build a  
24 road all the way back to the second lot to provide frontage.
  - 25 • The question asked: is this good planning, put in a road to create frontage so  
26 that one can put in a subdivision. It could set a bad precedent.
  - 27 • Ms Horgan asked if a condominium form of ownership has been considered  
28 for this situation. The answer is that there would be two buildings, and since  
29 this is in the R3 district, it would not meet code for this area.
  - 30 • Mr. Stewart expressed that from an environmental impact consideration, to  
31 actually build the road would have too much impact. Better to build a  
32 driveway to potential house in front lot, which would give "frontage" to the  
33 front lot.

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35 Mr. Chagnon and Mr. Keane consulted and proposed a new lot line placement:  
36 movement of lot line to get 100' frontage on Wild Rose Lane for the back lot. The  
37 front lot would have frontage by building a driveway from WRL back 100 feet. The  
38 access for the back lot would remain in the current location; there is no  
39 requirement for the frontage to be the access point. Putting in a 100 foot "street" on  
40 the front lot would need a conditional use permit because there is some wetland just  
41 at the point where this would go in.

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43 This new alternative proposal will be prepared and submitted for next month, when  
44 the Planning Board will have a site walk. Wetlands are already flagged, so the  
45 Planning Board can see how it will all work. Adjusting the lot line can minimize

1 impact. Feedback will be needed from the Conservation Commission eventually, but  
2 this Planning Board group will provide ideas for alternative actions.

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4 The walk through will be held June 22<sup>nd</sup> at 6:30p at the lot on Wild Rose Lane.

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6 **3. Review and approve minutes to meeting April 27, 2016**

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8 There were no corrections to the minutes of the April 27, 2016 meeting. Mr. Potter  
9 moved to approve the minutes, Ms. Horgan seconded the motion. The motion  
10 passed unanimously.

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12 **4. Old Business**

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14 Update on ordinance changes still under review. Mr. Hammer was working on one.  
15 At issue is the question of fines and the fact that there is no recourse currently in  
16 place. Enforcement is the present issue. It was suggested that the Conservation  
17 Commission be empowered to have more influence when actions of residents are  
18 not in the best interests of the town. An example is the cutting of trees, particularly  
19 in wetlands or their buffer zones. It is suggested that this issue be studied from  
20 multiple angles: working with the Conservation Commission, attaching fines to  
21 ordinances passed for the protection of the wetlands and buffer zones, possibly  
22 working with the police chief. We have ordinances regarding cutting trees in the  
23 buffer zones, but do not have a fine attached to the ordinance to enforce it.

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25 May need a cutting plan to cut trees in the buffer zone. That is what needs to  
26 happen on new construction. Need follow-up to be sure that conditions put on  
27 approvals are actually enacted.

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29 **5. Adjournment of the meeting.**

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31 Mr. Landry moved to adjourn the meeting, Mr. Stewart seconded the motion, it was  
32 unanimously passed.

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34 Respectfully submitted,

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36 Ellie Clement,  
37 Secretary to the New Castle Planning Board