

**Village of New Maryland**  
**PUBLIC HEARING MINUTES**  
**Requested Zoning By-Law Amendment 04-01-2020**  
**Council Chamber – 584 New Maryland Highway**  
**22 January 2020**

**Present:**

Judy Wilson-Shee, Mayor	Heather Clements, Resident
Alex Scholten, Deputy Mayor	Steve Clements, Resident
Gisèle McCaie-Burke, Councillor	Cheryl McLaughlin, Resident
Paul LeBlanc, Councillor	Wendy Irrinki, Resident
Mike Pope, Councillor	Mary Phillips, Resident
Tim Scammell, Councillor	Darrell Phillips, Resident
Karen Taylor, Assistant Clerk	Melanie Miles, Resident
Scott Sparks, Treasurer	Carrie Miles, Resident
Rockland Miller, Public Works Supervisor	Stephanie Deleseleuc, Resident
Rob Pero, Building Inspector/Development Officer	
Scott Trevors, Applicant	
Mark Somerville - Capital Family Services Inc., Group Home Operator	

**1. Call to Order/Welcome/Opening Comments:**

Mayor Judy Wilson-Shee introduced herself and called the public hearing to order at 6:30 p.m.

The Mayor welcomed everyone to the public hearing in consideration of Zoning By-law Amendment 04-01-2020 requested by the property owners to permit the addition of the term “Group Home” to the list of permitted uses for that particular residential zoned property at 400 New Maryland Highway.

She commented that the purpose of the hearing was not to engage in debate on the topic, but rather for the applicants to provide a presentation on their proposal, and to provide residents an opportunity to express any views they may have in relation to it. She communicated that, to allow time for full consideration of the matter, Council would not be making any decisions that evening. She noted that any written comments submitted previously, and all written and verbal statements presented at the hearing would be carefully considered in Council’s further deliberations on the requested amendment, and that the fate of the application would be determined at a future regular Council meeting.

She then asked that Rob Pero, the Village Building Inspector and Development Officer, guide the remaining agenda for the hearing.

**2. Introductions:**

Rob Pero thanked Mayor Wilson-Shee for her opening comments and advised all in attendance that he would be facilitating the balance of the agenda for the hearing.

He asked that the public record their names on the attendance sheet to ensure an accurate record of attendance. He also advised that a voice recording device would be operated to ensure an accurate account of comments is captured in the meeting minutes to be prepared by staff.

Prior to providing a brief explanation of the public consultation process for the proposed by-law amendments, he introduced Mark Somerville from Capital Family Services Inc., the current group home operator and building tenant at 400 New Maryland Highway, and explained that Mr. Somerville would be representing for the property owners.

### **3. Overview of By-Law Amendment and Public Consultation Process:**

Rob Pero noted that copies of the information under review by Council have been made available and encouraged those in attendance to refer to the documents. He then explained that the Village Municipal Plan By-law sets out the general long-range policy framework for future land use within the Village, and the overall needs and the vision for the municipality, whereas the Zoning By-Law is the administrative tool that ensures the Municipal Plan policies are adhered to on a day-to-day basis and that development or redevelopment occurs in an orderly fashion.

He noted that amendments to either the Municipal Plan or Zoning By-Laws can be initiated as a result of a general review process or may be requested in support of a proponent's development or proposal. Council's role is to assess, in consultation with the Village Planning Advisory Committee and the general public, the extent to which a development or proposal fits with the municipal growth and development objectives of the Village.

He then provided details on the public engagement and consultation processes that are required by provincial legislation whenever a Municipal Plan or a Zoning By-law amendment is being considered.

He explained that initially staff review the application, consult with Council on the setting of a date to host a public hearing, and Council requests that the Planning Advisory Committee review the proposal and provide recommendations.

Public notification of Village residents was conducted by delivering written notice to residents within 100 metres of the subject property. Also, notices were posted on the Village website and social media accounts, and advertising was also posted on the community bulletin board located along New Maryland Highway to advise residents of the opportunity to provide input via the public hearing.

He explained that after having received recommendations from the Village Planning Advisory Committee and comments from the public via the public hearing, Council may then decide to proceed with the necessary readings of Council to enact the requested amendment. Alternatively, Council may vote not to proceed with the by-law readings, thereby refusing the application.

He also noted that a zoning by-Law amendment approval may also be subject to specific terms and conditions as deemed necessary by Council. Upon registry of the by-law amendment and any corresponding zoning agreement with the Service New Brunswick Land Registry Office, a by-law amendment would then officially come into effect.

Finally, he clarified that any request for a subsequent amendment to terms and conditions outlined in a registered zoning agreement could only be approved subject to Council authorization after having re-engaged in the public notification and public hearing process as just described.

#### 4. **Documentation:**

Rob Pero explained the reason for the public hearing was due to the fact that the Village Zoning By-law categorizes a group home as an institutional use that is permitted either in an Institutional or Commercial Zone, or in a Residential Zone subject to the following Municipal Plan policy which states:

*3.3.5 Institutional Uses - Policy*

*1) In the areas designated Residential on the Future Land Use Map, it shall be a policy of Council that Institutional uses will be permitted only as an amendment to the Zoning By-law and subject to the conditions outlined in Policy 6.3.1.*

The meeting package provided to Council and the public therefore included the following documentation that related to the applicant's zone amendment request to add the term "Group Home" as a permitted use at the residential zoned property:

- (i) Application to Amend the Zoning By-Law – 400 New Maryland Hwy. - Dec. 02, 2019
- (ii) Public Hearing Notice – December 23, 2019
- (iii) Public Hearing Notice - Village Website/Social Media Postings - December 23, 2019
- (iv) Background Information Posted to Village Website – December 23, 2019
- (v) Basement and Main Floor Plans – 400 New Maryland Highway – December 19, 2019
- (vi) Public Input re: PAC Temporary Use Variance Application – December 9, 2019
- (vii) PAC Notice of Decision re: Temporary Use Variance - December 12, 2019
- (viii) PAC Report to Council for January 2020 – January 15, 2020
- (ix) Public Input re: Application for Amendment to Zoning By-Law (to January 20, 2020)

He clarified that in early December of 2019, the Planning Advisory Committee approved, subject to numerous terms and conditions, the applicant's request for a temporary use variance to reconcile the non-conforming use of the property until such time that Council had the opportunity to review the applicant's concurrent request for a zone amendment. After briefly reviewing the documentation, and the Planning Advisory Committee recommendation that the zone amendment request not be approved. Rob Pero explained that all written and verbal comments to be received at the hearing from the applicant and the public would be subject to further careful review and deliberation by Council at a later date.

#### 5. **Requested By-Law Amendment 04-01-2020:**

Rob Pero then invited Mark Somerville of Capital Family Services to share some details of his recent history with the subject property, the nature of the services offered to his clientele and any other information he wished to share with Council or the public.

Mark explained that he and his employees provide Applied Behavioral Analysis services and provide a home-like setting for youth that reside at the group home. He explained that one child resides on the downstairs level and two children reside on the upstairs level. His staff provide specific programming that each child follows throughout the day to assist with relearning social communication skills or relearning how to accept or deal with frustrating situations. The objective is to de-institutionalize children with autism for whom their immediate families are unable to provide the level guidance or treatment they require. He noted that their wish is to make the experience for their clients as normalized as possible and the property and home at 400 New Maryland Highway was attractive to them for those reasons.

Rob Pero asked Mark if he could elaborate on the provincially mandated requirements such as staffing levels, ratios, etc. Mark noted that they're required to have two staff per child on a 24/7 basis. He explained that they have three staff for the two children on the upper level which is permitted because one of the children has high functioning autism and is not physically aggressive, which he explained is somewhat atypical. There is also a house manager and staff work on a shift-work rotation from 7 am to 3 pm, 3 pm to 11 pm, and 11 pm to 7 am. Capital Family Services also employ registered behavioral technicians and a professionally designated behavior analyst that attend the site to provide counselling services to their clients. Mark commented that they have had some recent successes with being able to reintegrate some of their clients back into their parental homes.

Rob Pero questioned, in the event of an approval by Council, what the nature of the use of the property could be and would there always be a maximum of three clients in the home. Mark confirmed that in the City of Fredericton the zoning by-law permits group homes in a residential zone to a maximum of 4 children, but that their intent for the New Maryland property would be three children only as it provides for more of a productive setting for the children.

Rob asked Mark if he wished to provide additional information on the nature of the company. Mark clarified that all of his staff are trained in non-violent crisis intervention, and various staff are trained in applied behavior analysis, mental health first aid, suicide risk assessment, strength and needs assessment, and a variety of other mental health care workshops relating to children at risk, autism, fetal alcohol syndrome, and societal integration. Mark noted that all of his staff have a college diploma or a university degree.

As closing comments, Mark noted that he's willing to work with the Village to accommodate any requirements that Council may wish to attach to an approval, and in the event that the application is refused, that he would ask that some allowance of time be provided to transition the children to another location as he doesn't wish to uproot the children quickly and potentially traumatize them. He noted that the March 31, 2020 deadline referenced in the PAC temporary use variance approval would be a sufficient amount of time to make alternate arrangements for the children's housing needs.

## 6. Comments from the Public:

Rob Pero then opened the floor to questions or public comments

**Steve Clements:** Mr. Clements identified himself as the immediately adjacent property owner at 410 New Maryland Highway and acknowledged the need and benefit to society for the type of service and resources being provided by the applicants, but believed that what required consideration is the location of the use and the location's suitability for the type of operation.

Mr. Clements proceeded to recite a letter to be provided to Council. He noted that he had previously outlined his concerns in his letter the Planning Advisory Committee and his concern about the direct impact to the multiple abutting properties and also to the property it shares a common driveway with. Mr. Clements reminded Council that the applicant or property owner were not the ones who had initiated the application, and that it was a result of a neighbor bringing the matter to the attention of the Village.

Mr. Clements also mentioned that it was discussed at the December 2019 PAC meeting that the operators had not followed due diligence or best practices in terms of checking local by-laws or making contact with adjacent property owners to advise of the intended use of the property and that the operation has been active for approximately a year and a half. Mr. Clements also referenced a term and condition required by the PAC temporary use variance approval that the operators provide a contact number to adjacent residents in the event of issues. He noted that he had not received any information from the operators to that point, and that PAC would therefore have the authority to revoke the temporary use approval for non-compliance. He noted that the use of the property is a 24/7 business that shares a driveway with an adjacent residential property, has traffic associated with shift changes and should not be a type of business permitted to operate in a residential zone.

Mr. Clements commented that the subject property is fully visible and openly accessible to the four immediately adjacent properties and is not the private tree lined property represented by the operators, and as such is not an appropriate site for the referenced use due to the dense residential population surrounding it. He reiterated that the applicants have not complied with the local by-laws, followed best practices, nor adhered to the PAC terms and conditions and therefore strongly encouraged Council to deny the request in light of those failures.

Finally, Mr. Clements referred to the Village Municipal Plan provision that non-conforming uses should be relocated to appropriately designated and planned sites and stated his view that Council should take that direction. He clarified that his objection was not to the concept of group homes, or Capital Family Service Inc. per se, but to the appropriateness of the site location. He encouraged Council to work with the operator to find an alternate appropriate location.

**Mary Phillips:**

Ms. Phillips introduced herself as the resident at 388 New Maryland Highway and recited a letter she had submitted to Council prior to the public hearing to voice her strong opposition to the operator's proposal. She expressed her view that the operation is an incorporated for-profit business in a residential zone. She remarked that Capital Family Services does not own the property but is renting the space and is a case of a non-conforming land use in a residential zone. She expressed her view that the use is not sufficiently compatible with the surrounding residential properties and is in violation of the Village Zoning By-Law. She also remarked that the site is not suitable for the business which shares a driveway with the adjacent property at 394/396 New Maryland Highway, which she and her husband own. She stated the business generates much more traffic than a normal residence would create, and the driveway was meant to be shared by two residential properties only. She noted the driveway had been shared since 1965 without issue but has become problematic with snow and vehicles parking on the edge of the driveway.

Ms. Phillips noted that the lower unit at 400 New Maryland Highway also has a level of traffic that is not acceptable for a residential property and reference the photos she had provided to Council. She noted that often more than six vehicles are parked on the property. She noted that the shift changes are early in the morning and late at night, and that light from the traffic late at night has been disruptive to her tenants at civic number 394/396 New Maryland Highway.

Ms. Phillips stated that she has been advised by a real estate agent that the selling price of her property could potentially be impacted by up to 20% due to being located next to a group home and due to her having to disclose that information to potential purchasers. She noted that the group home may also be a deterrent to attracting future tenants and young families at her rental property at Civic 394/396 as there have been some negative experiences with the teenagers living at the group home.

She reiterated that the use is not compatible with the residential neighborhood and that there is strong objection as evidenced by the petition signed by numerous residents in her neighborhood. The petition was submitted in response to the PAC request for public input to the temporary use application and also applies to the request for a by-law amendment. She commented that when homes were purchased or built in the residential zone, it was expected to be just that, a residential zone with all residences complying with the by-law for the zone.

In closing, Ms. Phillips expressed her trust that Council would consider their concerns in rendering a decision on the application.

**Rob Pero:** Rob Pero asked if others wished to provide comments. Hearing none he invited the Mayor to close the “Comments from the Public” segment of the hearing agenda.

**Mayor Wilson-Shee:** The Mayor expressed that, to ensure all in attendance had an opportunity to make final comments, she called two times for any further comments in favor of the proposed amendments.

**Mark Somerville:** Mr. Somerville expressed his wish to offer some additional input. He noted that his other group home operations in the City of Fredericton are located at Residential Zone Two (R2) properties and he now realized that the by-law requirements in Fredericton are clearly different than in New Maryland. In researching possible group home locations, he stated that he would normally ask the owner if the property is zoned R2 and whether the “group home-limited” option is permitted, and they would source a letter from the landlord to confirm. He reiterated his understanding that the same zoning requirements don’t seem to be the case in New Maryland and apologized that he didn’t think the criteria would be different in New Maryland.

**Scott Trevors:** Mr. Trevors, co-owner of the property, added that the understanding that the by-law requirements were different between municipalities was a mistake that was missed by Capital Family Services and also their lawyers.

**Mark Somerville:** Mr. Somerville also added that they are a for-profit agency that sells services, need to employ people to deliver those services, and are funded through the provincial government, so it is a government funded agency and is non-profit in that sense. He noted the service requires qualified skilled people and therefore they pay their employees more than a non-profit business would.

**Mayor Wilson-Shee:** The Mayor thanked Mr. Somerville and Mr. Trevors for their input and advised that their comments had been noted. The Mayor then called a third time for any further comments in favor of the proposed amendments. Hearing none, the Mayor called three times for public comments in opposition to the proposed amendments, to which none were offered by those in attendance.

#### **7. Closing Comments and Adjournment – Mayor Judy Wilson-Shee:**

Mayor Wilson-Shee concluded the public hearing by thanking the residents for their attendance. She explained that public notification and consultation are inherent to the By-Law amendment process to ensure residents have an opportunity to be informed, and to have a mechanism to express their input on requested by-law amendments and related land use or development applications.

Mayor Wilson-Shee advised that the public hearing is the final step in the public consultation process and that Council would give full consideration to the input received from the public. She stated that Council would assess the desirability of the proposal with particular regard for municipal policy, assessed need, and potential impact on the community prior to considering approval or defeat of the requested by-law amendment.

Mayor Wilson-Shee expressed her gratitude for residents participating in the public review process and suggested that if anyone had remaining questions about the ongoing status of the by-law amendment process, that they should contact Rob Pero, the Village Building Inspector and Development Officer, at any time.

Mayor Wilson-Shee called for a motion to adjourn the public hearing.

**Moved by** Councillor Gisèle McCaie-Burke and **seconded by** Deputy Mayor Alex Scholten to adjourn the public hearing.

**The session adjourned at 7:20 p.m.**

Respectfully submitted,

Rob Pero,  
Building Inspector / Development Officer

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Judy Wilson-Shee  
Mayor

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Karen Taylor  
Assistant Clerk