

# Town of Yarmouth

Per M.G.L.: All town and school boards, committees, commissions, and authorities shall post a notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays, and legal holidays. Notice shall contain a listing of topics/agenda that the chair reasonably anticipates will be discussed at the meeting.

## Notice of Meetings

Name of committee, board, etc:	<b>Planning Board</b>
Date of Meeting:	<b>September 7, 2022</b>
Time:	<b>5:30 p.m.</b>
Place:	<b>Town Hall Hearing Room 1146 Route 28, South Yarmouth, MA 02664 OR Zoom Link: <a href="https://us02web.zoom.us/j/89836415124">https://us02web.zoom.us/j/89836415124</a> Phone: +1 301 715 8592 and enter webinar ID: 898 3641 5124</b>

This is to formally advise that, as required by M.G.L. Chapter 30A, §§ 18-25, and pursuant to Chapter 22 of the Acts of 2022, and *An Act Relative to Extending Certain State of Emergency Accommodations*, signed into law on July 16, 2022, the Yarmouth Planning Board will hold a public meeting at the date and time noted on the Notice of Meeting. The public is welcome to attend either in-person or via the alternative public access provided on the Notice of Meeting available on the Town of Yarmouth website.

### Agenda (Topics to be discussed):

- PUBLIC HEARING - CONTINUED: [Definitive Subdivision No. 2936A and Special Permit #116:](#)**  
Owner: The Roman Catholic Bishop of Fall River, 450 Highland Ave, Fall River, MA 02720-3701.  
Applicant: The Davenport Companies, 20 Main Street, South Yarmouth, MA 02664. **Property Location: Unnumbered lot on the south side of Route 6A, between Kencomsett Circle and Outward Reach and across the street from Hockanom Road; Assessor's Map 125, Parcel 39; 15.3 acre lot; Zoning District R40 Residential.** The Applicant is seeking approval for a 14-lot single-family cluster Definitive Subdivision Plan entitled "Definitive Subdivision Plan of Land of the proposed Single-Family Cluster Development at Lot 2, Route 6A, Yarmouth Port, MA for The Davenport Companies" with waivers; and a Special Permit for a 14-lot single-family cluster subdivision under the provisions of Yarmouth Zoning Bylaw Section 402.
- Zoning Amendments for Special Town Meeting (STM):** Discussion on minor amendments to the Village Centers Overlay District (VCOD) for fall town meeting.
- Officer Elections and Committee Assignments - Vote**
- Meeting Minutes
- Board of Appeals Agenda & Decisions
- Committee Updates from Board Members
- Board Member Items
- Correspondence
- Staff Updates
- Upcoming Meetings:** September 7, 2022 and September 21, 2022
- Adjournment

Attachments: All exhibits are available for public review in the Planning Department, Yarmouth Town Offices, 1146 Route 28, South Yarmouth, MA, during normal business hours.

Posted By (Name):	Kathleen D. Williams
Signature:	<i>Kathy Williams</i>

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Posted By (Name):	Kathleen D. Williams
Signature:	<i>Kathy Williams</i>

LAW OFFICES OF  
**PAUL R. TARDIF, ESQ., P.C.**

490 MAIN STREET  
YARMOUTH PORT, MA 02675  
(508) 362-7799 (508) 362-7199 fax

*Paul R. Tardif, Esq.*  
[ptardif@tardiflaw.com](mailto:ptardif@tardiflaw.com)

[www.tardiflaw.com](http://www.tardiflaw.com)

*Stacey A. Curley, Esq.*  
[scurley@tardiflaw.com](mailto:scurley@tardiflaw.com)

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REFER TO FILE NO.

September 1, 2022

FIRST CLASS MAIL AND EMAIL - [kwilliams@yarmouth.ma.us](mailto:kwilliams@yarmouth.ma.us)

Kathy Williams, PE  
Yarmouth Town Planner  
1146 Route 28  
South Yarmouth, MA 02664-4492

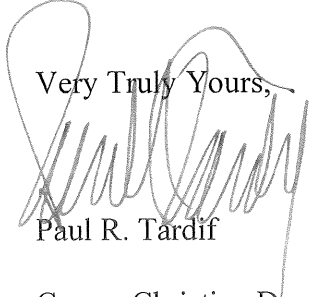
RE: Route 6A, Yarmouth Port, MA - Definitive Cluster Subdivision #2936A  
Special Permit Petition #116 - Davenport Companies

Dear Ms. Williams:

As you know, this office represents the Davenport Companies regarding the development of a 14 lot Cluster Subdivision in Yarmouth Port on Route 6A. We appeared before the Board on May 18, 2022 for hearing on our request for a Definitive Cluster Subdivision Approval and a Special Permit pursuant to Zoning Bylaw Section 402. Due to Board member questions and suggestions, as well as comments from the public, the hearing was continued to June 15, 2022, and due subsequent requests of my client, to July 6, 2022, to August 3, 2022 and again to September 7, 2022. As I have explained when requesting extensions, my client has endeavored to explore the relocation of the road and septic systems, which could alleviate the need for at least 2 requested waivers, including the 400-foot intersection spacing requirement of §4.2.1(j). We have now drafted a new plan for the property, which will shortly be filed with your Board for preliminary review, and ultimately, a definitive approval.

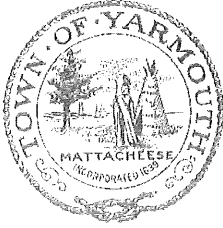
Until we can gauge whether the new plan is viable, we would like to keep the current applications active by requesting a continuance to the January 18, 2023 meeting. I will sign the Extension form to that date if provided the form. I thank you for your efforts on this and know that we continue to work diligently to address the questions and concerns of the Board and the neighbors.

Very Truly Yours,



Paul R. Tardif

Cc: Christian Davenport  
DeWitt P. Davenport  
John O'Reilly  
Robert Reedy



# TOWN OF YARMOUTH

1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-4492  
Telephone (508) 398-2231, Ext. 1276, Fax (508) 398-2365

Planning  
Board

## ***Planning Board*** **AGREEMENT FOR EXTENSION**

**Applicant/Petitioner:** The Davenport Companies

**Owner:** Roman Catholic Bishop of Fall River

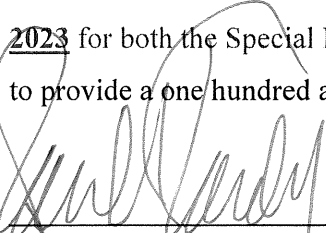
**Project Location:** South Side of Route 6A, Yarmouth Port across from Hockanom Road  
Assessor Map 125, Parcel 39

**Project No.:** Definitive Subdivision Plan 2636A & Special Permit #116  
(14-Lot Single-Family Cluster Subdivision)

**Application Filed:** March 24, 2022

**Hearing Dates:** May 18, 2022, continued to July 6, 2022, August 3, 2022 and  
September 7, 2022

The Petitioner understands and agrees that the Planning Board will not take "final Action" on Definitive Subdivision Plan No. 2636A within 90 calendar days of submission of the Definitive Subdivision Plan as the Petitioner has requested to continue the Public Hearing to **January 18, 2023** for both the Special Permit and the Definitive Subdivision Applications. The Applicant agrees to provide a one hundred and forty (140) calendar day extension.

  
\_\_\_\_\_  
Signature of Petitioner or Agent for Petitioner

Date: 9-2-22

Paul R Tardiff  
Printed Name of Petitioner or Agent for Petitioner



# TOWN OF YARMOUTH

1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-4492  
Telephone (508) 398-2231, Ext. 1276, Fax (508) 398-2365

Planning  
Division

## MEMORANDUM

To: Planning Board

Cc: Mark Grylls, Building Commissioner  
Karen Greene, Director of Community Development

From: Kathy Williams, Town Planner

Date: September 2, 2022

Subject: STM 2022 – VCOD Potential Zoning Amendments for Planning Board Discussion

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Please find attached draft Redlines of Section 414 – VCOD and a draft Article with Explanation for potential amendments to the VCOD zoning bylaw for the fall Town Meeting. Most of the proposed amendments in the attached are based on input from the Planning Board at their August 17<sup>th</sup> meeting. However, there are a few items that have been added or have additional information as noted below:

- 1. Section 202.5 – Use Regulation Table:** Currently duplexes are not allowed in the VCOD except for top of shop style housing in the VC1 and VC2 per Footnote 41. Some developers have interest in duplexes as they would not require sprinkler systems, whereas a triplex (or larger) would require the added expense of sprinklers. The attached draft Article would allow for duplexes in all 4 villages and eliminate Footnote 41. Or, the Board may want to limit them to the VC2 which is the “residential” village and retain Footnote 41 for VC1 per the current bylaw.
- 2. Section 414.8. – VCOD Design Standards:** To allow for some flexibility in compliance with the design standards, the Board was considering an amendment that would allow for some waivers of the design standards through the VCOD SPR process. Upon further consideration, it may not be prudent to allow for relief from the bylaw through a process that does not require a formal public hearing, abutter notification or recording of the decision. Preliminary discussions with Town Counsel indicated the proposed changes might be possible. However, the other proposed changes to lessen the rigidity of the design standards and to allow for more relief through Special Permit by the ZBA would appear sufficient at this time.
- 3. Section 414.8.5 - Fenestrations:** The attached Article and Redlines include some minor amendments regarding the options for window styles on the upper floors rather requiring a rigid width to height ratio.

**ZONING ARTICLE 1:** To see if the Town will vote to amend various sections of the Zoning Bylaw to modify certain provisions related to the Village Centers Overlay District (VCOD), with new language shown in bold italics, as follows, or take any other action relative thereto:

1. Amend Section 202.5 – Use Regulation Table, by modifying Use A2 Two-family dwellings by replacing the text “*no*<sup>41</sup>” in the VC1 and VC2 zoning districts with new text “*yes*”; and replacing the text “*no*” in VC3 and VC4 with new text “*yes*”, as shown:

202.5 Use Regulation Table	Res.	RS-40	B1 <sup>21</sup>	B2 <sup>21</sup>	B3 <sup>21</sup>	RMDOD <sup>44</sup>	MU	APD	AED	MOD	HMOD1	HMOD2	VC1	VC2	VC3	VC4
A. RESIDENTIAL																
A2 Two-family dwelling <sup>48</sup>	yes	no	yes	PB <sup>24</sup>	no	no	yes	yes	no	yes	yes	yes	<i>yes</i>	<i>yes</i>	<i>yes</i>	<i>yes</i>

2. Amend Section 202.5 – Use Regulation Table - Footnotes, by deleting Footnote 41 in its entirety, as shown:

41. *Deleted (11/15/22)*

3. Amend Section 414.6.1.1 - Table of Maximum Building Height within the VCOD, Note (A), by deleting the text “*No lot may be filled to a height greater than*” in the second sentence and adding new text as shown:

(A) Height shall be measured from the existing average natural grade at the street side of the foundation. ***Fill in excess of 4’***, as measured from natural grade at the street, ***shall require a permit from the Building Commissioner per Section 302.1 of the Bylaw***. If the building is located in a FEMA Flood Zone AE, height shall be measured from 1 foot above Base Flood Elevation (BFE). If the building is located in a FEMA Flood Zone AO, height shall be measured from 1 foot above the Depth of Water shown on the Flood Insurance Rate Maps, measured from the average natural grade at the front face of the building foundation. If located in a FEMA Flood Zone VE, height shall be measured from the top of the “freeboard”, as defined in the Massachusetts Building Code 780 CMR (as amended). Parking located below a building shall not be counted as a story, but shall be taken into consideration when measuring building height.

4. Amend Section 414.6.3.1 – Table of Dimensional Requirements, by adding new text to the Front Yard Setback Maximum in the VC1, as shown:

	VC1	VC2	VC3	VC4
Yard Setbacks: (B) (C) (D)				
• Front Yard Setback Minimum: (E) (F)	15 ft.	30 ft.	15 ft.	15 ft.
• Front Yard Setback Maximum: (G) (F)	20 ft., <b><i>except 25 ft. in FEMA Flood Zones</i></b>	n/a	25 ft.	25 ft.

5. Amend Section 414.6.4 – Dimensional Relief, by deleting the section in its entirety and replacing with new text as shown:

***414.6.4 Relief: The SPGA may provide relief from the provisions within the VCOD bylaw through a Special Permit, except for relief from building height and maximum front yard setback, which would require a Variance. The SPGA shall consider the criteria listed under Section 414.3.3 (Special Permits) when reviewing any Special Permit application for relief. The SPGA shall not have jurisdiction over situations that are more specifically defined such as where relief is allowed by right or precluded under Section 414.4, or where the Table of Dimensional Requirements provides opportunity for relief related to flag shaped lots (footnote F).***

6. Amend Section 414.8 – VCOD Design Standards, by adding the following new text at the end of the first paragraph:

***The Planning Board, through the VCOD SPR process, may alter or waive one or more of the requirements of Section 414.8 and the Architectural and Site Design Standards if it finds that the alteration or waiver of the requirement(s) substantially adheres to the intent and purpose of this section of the bylaw.***

7. Amend Section 414.8.1 – Site Design, Paragraph 4, by deleting the paragraph in its entirety and replacing with new text as shown:

***4. Clear pedestrian pathways shall be provided between buildings, from the development to public ways, and across automobile driveways. Where there are existing sidewalks along Route 28, the design of the VCOD development shall provide accommodations for future expansion of 6' wide sidewalks onto the property along the entire frontage abutting Route 28. When no sidewalk exists, the developer shall provide a minimum six (6) foot wide sidewalk on the project property along the entire frontage abutting Route 28. Applicants are encouraged to explore opportunities to reconfigure existing sidewalks to better accommodate pedestrian and/or bicycle traffic.***

8. Amend Section 414.8.4 – Entranceways, Paragraph 3, by adding new text as shown:

***3. For commercial use, street level frontage shall be primarily devoted to entrances, shop windows or other displays. Street level frontage that incorporates setback areas beyond the minimum required in Section 414.6.3 (Table of Dimensional Requirements) shall incorporate seating and trash receptacles that are accessible to pedestrians to the extent practicable.***

9. Amend Section 414.8.5 – Fenestrations, Paragraph 1, by deleting the paragraph in its entirety and replacing with new text as shown:

***1. Bays in façades above the ground floor level shall typically be double hung, except where acceptable design features or dormer variations may require a different ratio***



*or style. Multiple bays may be placed immediately adjacent to one another in order to create larger window areas.*

10. Amend Section 414.8.6 – Dormers, Paragraph 1, by adding new text as shown:

1. On pitched rooflines *of 50' or more in length*, dormers *or other architectural elements* shall be used to break up roof surfaces.

11. Amend Section 414.8.7 – Roofline Articulation, Paragraphs 1 & 2, by deleting the two paragraphs in their entirety and replacing with new text as shown, and renumbering the remaining paragraphs:

1. *Roof models shall include such styles as gables, gambrels, hip roofs, mansards, and flat roofs. Where flat roofs are proposed, these rooflines shall have decorative cornices, parapets or other architectural elements that extend from the roof edge to provide a decorative and articulated edge, and screen roof mounted equipment.*

12. Amend Section 414.8.9.3 – Buffers, Paragraphs b and f, by adding new text as shown:

- b. Within the twenty (20) foot buffer to a residentially zoned area, a vegetated, virtually opaque screen shall be provided by a minimum six (6) foot wide planting strip maintained with densely planted shrubs not less than six (6) feet in height, *except as allowed under paragraph f below*. Shrubs shall be at least seventy-five percent (75%) evergreens however the use of tall, monoculture, and uniformly planted rows of evergreens or other similar species shall not be used.
- f. Breaks in the buffer may also be incorporated into the design *to provide for water access and/or water views, and* where designated pedestrian or bicycle crossings or other features specifically designed to provide attractive visibility or connections to surrounding neighborhoods are part of the approach to site-wide circulation.

13. Amend Section 414.7.11 – Signage, Paragraph 10, by deleting the second, third and fourth sentences in the paragraph and adding new text as shown:

10. *Size of free-standing signs shall adhere to Section 303.5.4.* Free-standing, single pole (lollipop) signs are not allowed. Free-standing signs shall incorporate design details, materials and colors of the associated buildings. The base or support elements of free-standing signs shall be integrated with the surrounding environment, contribute to the functionality of pedestrian features and incorporate ornamental landscaping where possible.

**EXPLANATION:** This Article includes relatively minor amendments to the Village Centers Overlay District (VCOD) bylaw to simplify some of the complexities in the bylaw and allow for more flexibility in its implementation, all while retaining high design standards. These amendments address some issues that have arisen in review of past VCOD projects, review of upcoming projects, and consideration of projects developing in flood zones that are subject to specific building code requirements. Briefly, these changes would allow for two-family dwellings within all four villages; require adherence to section 302.1 for fill in excess of 4'; increase the maximum front yard setback in VC1 to 25' for properties within flood zones; allow for more relief to be given via Special Permit; **XXX**; modify the sidewalk requirements along Route 28 frontage; clarify that shop windows or displays apply only to commercial uses; modify the options for window styles on upper floors; clarify when dormers or other architectural elements are required on pitched rooflines; identify the style of roof models allowed in all the villages; allow for breaks in landscape buffers for water access and water views; and defer to the sign bylaw for size of free-standing signs within the VCOD.

Board of Selectmen Recommends (X-X)  
Planning Board Recommends (X-X)

(Yarmouth Planning Board)

**2/3 Vote Required**

## 414. VILLAGE CENTERS OVERLAY DISTRICT (VCOD)

**414.1 Purpose.** The purpose of the Village Centers Overlay District (VCOD) is to guide and encourage growth and redevelopment to areas with significant opportunities for infrastructure in order to preserve and revitalize the Town of Yarmouth's natural, cultural and economic resources, while supporting sustainable development that enhances and improves the community's character and sense of place. The district will provide incentives for economic development that will promote year round tourism and employment while requiring strict design standards including compliance with the Yarmouth Architectural and Site Design Standards as adopted and amended by the Planning Board.

The district will establish a series of contiguous but distinctive mixed use village centers that will create both a destination for tourists and a neighborhood for residents and business owners. Site and building design will encourage pedestrian and bicycle traffic by:

- reducing the number of curb cuts,
- providing walkable connections between properties,
- incorporating centralized parking facilities,
- allowing shared parking,
- encouraging public transportation facilities, and bike paths; and
- requiring sidewalks, and attractive lighting and streetscape design reflective of Yarmouth's community character.

414.1.1 Villages in the Overlay District - The Village Centers Overlay District has been divided into four (4) distinct classes of districts:

1. Village Center 1 (VC1) – The purpose of VC1 is to encourage development and redevelopment that will enhance the character of Parker's River, promote public recreational activities and create a mix of uses in a village setting that encourages pedestrian activity.
2. Village Center 2 (VC2) – The purpose of VC2 is to encourage development and redevelopment that focuses on residential uses with a mix of compatible, smaller commercial uses that will encourage people to live, work and shop in the district to promote a walk-able, livable neighborhood.
3. Village Center 3 (VC3) – The purpose of VC3 is to create opportunities for economic development that will provide year-round family-oriented activities that are appealing to residents and visitors, and create jobs for local residents.
4. Village Center 4 (VC4) – The purpose of VC4 is to encourage opportunities for economic development and redevelopment that focuses primarily on commercial uses that support year-round residents and provide year-round companion commercial businesses and accommodations to enhance the family-oriented activities area of VC3.

**414.2 Applicability.** The provisions of this subsection shall apply to those properties or lots which are located within the Village Centers Overlay District as shown on the map entitled "Zoning Map of the Town of Yarmouth," as most recently amended.

414.2.1 Overlay. The VCOD shall be construed as overlaying other existing zoning districts. The VCOD confers additional development opportunities that may be pursued at the discretion of the property owner and through the permit processes described herein. VCOD provisions may be voluntary or required in accordance with the following conditions:

1. Where a site has not been previously reviewed and developed under the VCOD provisions, development may occur in accordance with the underlying zoning or the VCOD and submittal for VCOD development applications shall be voluntary.
2. Where development activity for a given site was reviewed and approved as part of VCOD provisions, but a building permit has not been issued by the Town of Yarmouth, future review for development applications on the site may either be under the VCOD provisions or those of the underlying district.
3. Where development activity for a given site has been reviewed and approved as part of the VCOD provisions, and a building permit has been issued by the Town of Yarmouth, any future development applications shall be reviewed in accordance with the procedures and standards of the VCOD.

414.2.2 Conflicts. If the applicant chooses development under this Section 414, and where conflicts exists between this Section 414 and the rest of the Town of Yarmouth Zoning Bylaw, this Section 414 and regulations specifically referencing the VCOD shall apply.

414.2.3 Motels/Hotels. Motels and Hotels that are located within the VCOD and also located within and meet the applicability of Section 404.1 (Hotel/Motel Overlay District 1 (HMOD1)), may opt for development under Section 404.1 (HMOD1) or this Section 414.

414.2.4 ROAD Applicability. Development pursued under this Section 414 shall not be permitted to submit a proposal under the Revitalization Overlay Architectural District (ROAD) under Section 411 (ROAD).

414.2.5 Severability. The provisions of this Section 414 and other sections relating to the VCOD and classes of districts therein are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

**414.3 Permit Review Thresholds** The following permit thresholds shall be used to determine which permit process is required for any proposed VCOD development.

414.3.1 Building Commissioner Review. Applications for as-of-right VCOD development with the following characteristics shall be reviewed by the Building Commissioner.

1. The proposal would create less than 1,000 square feet of new or reconfigured floor area; or
2. The proposal would create or require fewer than five (5) new or additional parking spaces.

414.3.2 VCOD Site Plan Review. Applications for as-of-right development that exceed the thresholds for Building Commissioner review shall be reviewed by the Planning Board in accordance with the procedures and requirements listed in Section XVI of the Operational Regulations of the Yarmouth Planning Board. The Building Commissioner shall not issue a building permit without Planning Board Site Plan Review. No application for Special Permit under Section 414 may be filed prior to completion of the Planning Board Site Plan Review process. Any appeal of Planning Board Decision on Site Plan Review shall be made to the Zoning Board of Appeals.

414.3.3 Special Permits. The Board of Appeals shall be the Special Permit Granting Authority (SPGA) for all districts within the VCOD except where otherwise specifically noted. All application materials customarily prepared for VCOD Site Plan Review shall be submitted to the SPGA. The SPGA shall consider the following criteria when acting on a Special Permit application and may use these criteria to approve, approve with conditions, or deny said application:

1. Where applicable, the Planning Board Site Plan Review Decision;
2. The development provides for or supports Mixed Use development, where appropriate;
3. The development maintains or improves pedestrian access and outdoor public spaces;
4. The development provides for open space;
5. The development uses low impact design techniques to mitigate hydrologic impacts consistent with any applicable town standards for erosion and sediments control, soil protection, and stormwater management;
6. The development eliminates or minimizes curb cuts on Route 28;
7. The development provides for or contributes to alternative transportation or travel demand management;
8. Any relief granted in yard setback requirements creates a better alignment of buildings, improves the design of the building façade, or where necessary better accommodates shop entrances, plazas, sidewalk cafes, and pocket parks;
9. Any relief granted in yard setback requirements creates a safe and visually attractive walkable access/egress to parking areas;
10. The relief granted in yard setback requirements will not create significant interruption of the alignment of any sidewalk constructed on public or private property or will not otherwise interfere with pedestrian access;
11. The development provides for public access to Swan Pond, Parker's River, or public walkways and/or boardwalks;
12. The proposed development preserves significant viewshed to the Parkers River through site design and building scale and placement;

13. No undue nuisance, hazard or congestion will be created and there will be no substantial harm to the established or future character of the neighborhood or town;
14. The granting of a Special Permit would be consistent with the purpose of this Section 414;
15. The granting of a Special Permit would not decrease the degree to which the proposed development is consistent with the Yarmouth Architectural and Site Design Standards as adopted and amended; and
16. The granting of a Special Permit does not cause any violation of the Design Standards provided in Section 414.8.

Additionally, the SPGA shall follow other applicable criteria and procedures as set forth under the specific section of the Yarmouth Zoning Bylaw for which a Special Permit is being sought.

#### **414.4 Non-Conforming Structures, Lots and Uses.**

Lawfully pre-existing non-conforming structures; lawfully pre-existing non-conforming lots; and lawfully pre-existing non-conforming uses, may be continued, but shall not be extended or altered except as allowed for in the provisions stated herein:

##### 414.4.1 Non-Conforming Structures and Lots:

414.4.1.1 Lawfully pre-existing structures that do not conform to the VCOD dimensional standards; other than single-family or two-family structures which are provided for in 414.4.4 below; located on conforming, or lawfully pre-existing non-conforming lots that are rendered dimensionally non-conforming by the VCOD minimum lot area or VCOD minimum lot frontage, may be extended, altered, or razed and replaced *by right* provided that:

- (a) the resulting development, in its whole, complies with all other applicable provisions of this Section 414, including bringing any existing structural non-conformity into conformity. Deviation from this standard of conformance for any buildings fronting along Route 28 shall require a variance. Deviation from this standard of conformance for buildings not fronting on Route 28 shall require a special permit; and
- (b) the lot, at the time of recording or endorsement, whichever occurred sooner, conformed to the then existing lot area and frontage requirements; and
- (c) the lot has at least eight thousand five hundred (8,500) square feet of area and fifty (50) feet of frontage; and
- (d) the lot is not held in common ownership with any other contiguous lot, or was not held in common ownership with any other contiguous lot at the time of, or since, the effective date of the increased requirements.

414.4.1.2 Single family and two-family structures on lawfully pre-existing non-conforming lots may be developed in accordance with Section 104.3.2(1) and 104.3.2(2) and shall not be developed under the VCOD Bylaw.

414.4.1.3 Dimensional relief for pre-existing lawfully established structures may be given in accordance with the provisions of Section 414.6.4 - Dimensional Relief.

414.4.1.4 Lots which do not conform to the dimensional requirements of this bylaw, as amended, shall not be individually built upon unless combined and/or re-subdivided so as to meet the revised dimensional requirements except as provided for in this Section 414.4, as enabled by 414.6.4, or as provided for in Section 104.3.4 of this bylaw.

414.4.1.5 Other Adjoining Non-conforming Lots. Lots which do not meet the exception of this Section 414.4 or Section 104.3.4, may be combined and/or re-subdivided pursuant to Section 104.3.5.

414.4.2 Non-Conforming Uses: Lawfully pre-existing non-conforming uses sited in lawfully conforming or lawfully pre-existing non-conforming structures may be continued but may not be extended or altered except as allowed for in the provisions as stated herein.

414.4.2.1 Abandonment. A non-conforming use which has been abandoned or discontinued for the period of two (2) years or more, from the date of adoption of this Section 414 bylaw shall not be reestablished under VCOD regulations, and any future use shall conform with this bylaw.

414.4.2.2 The change of a nonconforming use to another nonconforming use is prohibited in the VCOD.

414.4.2.3 The Building Commissioner shall decide whether uses are lawfully conforming or lawfully, pre-existing non-conforming.

414.4.2.4 Lawfully pre-existing non-conforming uses; (except a non-conforming use due to Maximum Commercial Tenant Size which follows the provisions as set forth in Section 414.4.3. below); sited in lawfully conforming or lawfully pre-existing non-conforming structures, may be extended, or altered, *by right*, if the following requirements are met:

- (a) the resulting development, in its whole, complies with all applicable provisions of this Section 414, including bringing any existing structural non-conformity into conformity. Deviation from this standard of conformance for any buildings fronting along Route 28 shall require a variance. Deviation from this standard of conformance for buildings not fronting on Route 28 shall require a special permit; and

- (b) the lawfully pre-existing non-conforming use is a permitted use in the underlying zoning district in which the property is located; and
- (c) there is no change of use to a non-conforming use of the VCOD.

414.4.3 Maximum Commercial Tenant Size. A non-conforming use based solely on a Maximum Commercial Tenant Size non-conformity, located on a lawfully conforming lot or a lawfully pre-existing non-conforming lot, may alter, extend, or raze and replace the structure housing the non-conforming Maximum Commercial Tenant Size use *by-right* if the following requirements are met:

- (a) the resulting development, in its whole, complies with all other applicable provisions of this Section 414, including bringing any existing structural non-conformity into conformity, other than Maximum Commercial Tenant Size use; and
- (b) the current tenant size unit may be decreased, but not increased; and
- (c) the existing use housed in the non-conforming tenant size unit is a permitted use either in the VCOD or in the underlying zoning district as provided for in the Table of Uses in Section 202.5; and
- (d) there is no change of use to a non-conforming use of the VCOD.

414.4.4 Change, Extension or Alteration of Single and Two-Family Structures:

Lawfully pre-existing non-conforming single- and two-family structures, and lawfully pre-existing single-family and two-family structures located on non-conforming lots, may be altered, extended or razed and replaced in conformance with Section 104.3.2(1) and 104.3.2(2) and shall not be developed under the VCOD Bylaw.

414.4.5 Restoration. Repairs and rebuilding shall be pursuant to Section 104.3.3 of this bylaw.

**414.5 Allowed Uses.** Allowed uses within the VCOD are referenced in Section 202.5, Use Regulation Table of this bylaw. The provisions of Section 202, Use Regulations, in its entirety, shall apply to all development within the VCOD. No use variances will be allowed in the VCOD.

414.5.1 Additional Use Regulations. The following additional regulations on use shall apply within the VCOD and districts therein.

1. Mixed Use. In keeping with the purpose of the VCOD, mixed use is not only allowed but encouraged with the following provisions:
  - a. The residential component of any Mixed Use development shall encompass between 40% and 85% of the Gross Floor Area of the development.



- b. In VC1, 3 and 4, the ground floor of the building(s) facing Route 28 shall contain non-residential uses. For mixed use developments with minimal commercial use, some non-transient residential use (dwelling units) may be allowed on the ground floor of buildings that front on Route 28, if approved through the VCOD Site Plan Review process.
  - c. In VC1, 3 and 4 non-transient residential use (dwelling units) shall be allowed on the ground floor of properties that have their frontage on a public way, other than Route 28, that existed prior to October 22, 2012.
  - d. No commercial uses shall be allowed above a Residential Dwelling Unit.
2. Maximum Commercial Tenant Size. Within the VC1, there shall be a Maximum Commercial Tenant Size of 5,000 square feet calculated as Tenant Floor Area, as defined below, for each individual commercial use. Where an individual structure contains more than one tenant, these tenants shall be counted separately.

Tenant Floor Area: Tenant Floor Area to determine the maximum tenant size shall be calculated as follows:

For an individual commercial tenant, the sum of the area of all stories within the perimeter of a unit measured from the exterior face of the outside walls, or centerline of shared walls with no deductions for accessory unoccupied areas such as hallways, stairs, closets, thickness of walls, columns or other such features. Basements, mezzanines, attics, and crawl spaces used for storage and not designed for human occupancy shall not count towards Tenant Floor Area. Outdoor areas used for terraces, patios, uncovered decks, stoops, storage, sales, service, and display shall also be excluded from determining Tenant Floor Area. The Building Commissioner shall determine the Tenant Floor Area of any unit or structure.

- 3. Wastewater facilities. Public and private wastewater treatment facilities, including those shared by multiple property owners, shall be considered an accessory use to all uses served by said facility.
- 4. Parking Garages. Parking garages, including underground parking garages, public parking garages as a primary use, and parking garages as an accessory use to a commercial use are allowed in the VCOD pursuant to Section 414.7.8(4) (Parking Garages/Structures).

414.5.2 Housing Provisions in the VCOD. The following housing provisions shall apply in the VCOD. Hotel / Motel redevelopment under Section 404.1 (HMOD1) of the bylaw are not subject to these provisions and shall be subject to the provisions as set forth in Section 404.1 (HMOD1).

1. Maximum Residential Density. Residential dwelling unit density in each district of the VCOD shall be as provided for in Section 414.6.3(1) – Table of Dimensional Requirements.
2. Unit Size. All residential dwelling units constructed under the provisions of this Section 414 shall consist of the following minimum square footage:
  - a. 400 square feet for a studio unit.
  - b. 700 square feet for a one-bedroom unit.
  - c. 900 square feet for a two-bedroom unit.
  - d. 1,200 square for three or more bedroom units.

Studio Unit Limit: The number of studio units allowed in a development shall be limited to less than, or equal to, twenty-five (25%) of the total number of residential units in the development.

3. Inclusionary Housing: The provisions of Section 412 (Affordable Housing) of the bylaw including the provisions of inclusionary housing therein shall fully apply for VC1, VC3, and VC4. The provisions of Section 412 shall fully apply in VC2 for projects developing less than 30 residential dwelling units. The provisions of Section 412 shall not apply in VC2 for projects developing 30 or more residential dwelling units for a period of 5-years from the passing of this Bylaw. After the end of the 5-year exclusionary period (October 22, 2017), the number of affordable housing units required shall be reduced by 50% from those outlined in Section 412.2.3 only in VC2 for projects developing 30 or more residential dwelling units. Applicants must have completed the VCOD Site Plan Review process and the Planning Board Decision issued within the 5-year period to be eligible for the exclusion. Any approval by the Planning Board for Site Plan Review will expire 2 years after the Decision has been issued. A project proponent may renew the approval by majority vote of the Planning Board anytime within the 2 year period. It is strongly recommended that project proponents give notice to the Planning Board of their desire to extend the approval at least 60-days before the expiration date. No Planning Board Site Plan Review Decision may be extended to a date beyond October 22, 2019.

#### **414.6 Intensity of Use Regulations**

414.6.1 Building Height. Building height in the VCOD shall not exceed that which is outlined in the Table of Maximum Building Height below.

1. Table of Maximum Building Height within the VCOD

	<b>VC1(A)(B)</b>	<b>VC2(A)(B)</b>	<b>VC3(A)(B)</b>	<b>VC4(A)(B)</b>
0 – 50 feet from all lot lines	35 feet 3 stories	35 feet 3 stories	35 feet 3 stories	35 feet 3 stories
Beyond 50 feet from all lot lines	48 feet 4 stories	48 feet 4 stories	48 feet 4 stories	48 feet 4 stories

- (A) Height shall be measured from the existing average natural grade at the street side of the foundation. ~~No lot may be filled to a height greater than~~ Fill in excess of 4', as measured from natural grade at the street, shall require a permit from the Building Commissioner per Section 302.1 of the Bylaw. If the building is located in a FEMA Flood Zone AE, height shall be measured from 1 foot above Base Flood Elevation (BFE). If the building is located in a FEMA Flood Zone AO, height shall be measured from 1 foot above the Depth of Water shown on the Flood Insurance Rate Maps, measured from the average natural grade at the front face of the building foundation. If located in a FEMA Flood Zone VE, height shall be measured from the top of the “freeboard”, as defined in the Massachusetts Building Code 780 CMR (as amended). Parking located below a building shall not be counted as a story, but shall be taken into consideration when measuring building height.
- (B) Height limitations shall not apply to ancillary features, such as chimneys, spires, cupolas, antennas, pediments, cornices, mechanical equipment or screening for mechanical equipment, railings, or other similar structures not intended for human occupancy. These ancillary features shall have a maximum height of 8' above the maximum building height allowed.

414.6.2 Indoor Water Park. In VC3, a height of 65 feet is allowed for the specific use of an Indoor Water Park. This height of 65 feet is allowed for the indoor water slide component of the Indoor Water Park being necessary for the proper use and function of the water slide. If the Indoor Water Park includes an attached hotel and hotel amenities complex, the height of 65 feet shall also be allowed for the attached hotel complex; being necessary for the proper economic viability and aesthetic integration of the Indoor Water Park and hotel complex.

This 65 feet maximum height is allowed only for location within the property being 350 feet or more from the front lot line and being 100 feet or more from all other lot lines. For the remaining portions of the site, other than the Indoor Water Park and hotel complex, if applicable, the requirements as set forth in the Table of Maximum Building Height above shall apply.

414.6.3 Table of Dimensional Requirements. All buildings and structures within the VCOD shall meet the minimum requirements set forth in the following Table of

Dimensional Requirements unless otherwise expressly provided for within this bylaw or by G.L. ch. 40A, sec. 6, as amended.

1. Table of Dimensional Requirements.

	<b>VC1</b>	<b>VC2</b>	<b>VC3</b>	<b>VC4</b>
Lot Size Minimum: (A)	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.
Frontage Minimum:	125 ft.	125 feet	125 feet	125 feet
Yard Setbacks: (B) (C) (D)				
<ul style="list-style-type: none"> <li>• Front Yard Setback Minimum: (E) (F)</li> <li>• Front Yard Setback Maximum: (G) (F)</li> </ul>	15 ft.  20 ft., <u>except 25 ft. in FEMA Flood Zones</u>	30 ft.  n/a	15 ft.  25 ft.	15 ft.  25 ft.
<ul style="list-style-type: none"> <li>• Side Yard Setback: (H) (I)</li> </ul>	at zero (0) ft. <b>or</b> 15 ft. minimum	25 ft.	at zero (0) ft. <b>or</b> 15 ft. minimum	at zero (0) ft. <b>or</b> 15 ft. minimum
<ul style="list-style-type: none"> <li>• Rear Yard Setback Minimum: (I)</li> </ul>	20 ft.	20 ft.	20 ft.	20 ft.
Impervious Coverage Maximum: (J)	<ul style="list-style-type: none"> <li>• 90% for lots less than ½ acre;</li> <li>• 85% for lots ½-1 acre;</li> <li>• 80% for lots greater than 1 acre</li> </ul>	80%	85%	80%
Maximum Commercial Tenant Size:	See Section 414.5.1(2)	NA		
Maximum Residential Density (K) (L) (M)				
<ul style="list-style-type: none"> <li>• Residential development only</li> <li>• Mixed Use development (as part of)</li> </ul>	8 units/ acre  16 units/ acre	16 units/ acre (N)  16 units/ acre (N)	8 units/ acre  16 units/ acre	8 units/acre  16 units/acre

Footnotes:

- A. One hundred percent (100%) of the minimum lot size required must be upland (i.e., not a bank, beach, bog, dune, marsh, swamp or wet meadow under M.G.L. ch. 131, sec. 40).
- B. The following are specifically excluded from these regulations:
1. Fences, decorative walls, poles, posts, paving and other customary yard accessories, ornaments and furniture, ramps, landings and similar structures needed for compliance with the Americans with Disabilities Act.

2. Cornices, window sills, belt courses and other ornamental features may project not more than eighteen (18) inches; bay/bow windows, greenhouse windows and eaves may project not more than twenty four (24) inches, and chimneys may project not more than thirty two (32) inches into any required yard.
  3. Any stairway and associated landing may project into a required yard setback if it is less than thirty (30) inches in height.
- C. Side and rear yard setbacks for accessory buildings less than one hundred fifty (150) square feet and single story shall be six (6) feet in all districts, but in no case built closer than twelve (12) feet to any other building.
- D. For an Indoor Water Park, any tube slides protruding from a wall or roof shall be included and shall comply with the yard setback regulations.
- E. Any building located within 100 feet of the intersection of Parker’s River and Route 28 shall be set back from Route 28 a minimum of 30 feet.
- F. The front setback minimum and maximum (where applicable) provided in this table is applicable only to those properties that have their frontage on Route 28. Front yard setbacks are required along Route 28 to ensure a contiguous broad line of passage for pedestrians and/or bicyclists along the corridor. For lots with frontage on interior roads (not on Route 28 or on a public way that existed prior to October 22, 2012) the minimum front yard setback shall be zero provided all standards for pedestrian and bicycle circulation are met and there shall be no maximum front yard setback. Front yard setbacks on a public way other than Route 28 that existed prior to October 22, 2012 shall be in accordance with Section 203.5 – Table of Dimensional Requirements.

If a property has limited frontage on Route 28, with the bulk of the developable portion of the lot being in the rear (i.e. a flag shaped lot), the Route 28 streetscape can be developed into green space which shall include such amenities as a park, sitting areas, public art, and landscaping, rather than a building, if approved through the VCOD Site Plan Review process.

- G. A minimum of 75% of the building façade shall comply with the maximum setback requirements. Up to 25% of the façade may be recessed up to thirty (30) feet farther from the maximum front yard setback to accommodate alcoves for seating areas, public art, display areas or fountains.
- H. For those districts where an absolute at zero (0) side setback is allowed, this zero (0) side setback will be allowed only upon an agreement with an

abutting property owner is entered into wherein the abutting property owner, and the developing parcel owner, shall (re)develop at an absolute zero (0) side setback on said side thereby creating an adjoining building to visually reinforce a building façade line of the street. Said agreement shall include provisions and plans for access and egress to any individual and/or shared parking areas. Said agreement shall be presented with site development plans at the time of applying for Site Plan Review, and/or Design Review and/or Special Permit relief.

If a proposal does not meet the above requirements for developing at a side setback of an absolute zero (0), then the side setback requirement shall be at the fifteen (15) foot minimum where the building frontage is on a public way that existed prior to the adoption of this Section 414 (October 22, 2012). For buildings that front on interior drives or roads created under this Section 414, side yard setbacks may be smaller than fifteen (15) feet, but shall not result in separated buildings being closer together than twelve (12) feet.

- I. Where the side or rear yard setback is applied to a structure that is adjacent to a residential district, the setback shall be in accordance with the value in the table or equal to the height of the structure, whichever is greater.
- J. Impervious surface calculations shall include the developed footprint of impervious surfaces (structures, pavement, etc.) including any unpaved parking areas. Pervious paving shall be counted as impervious in lot impervious coverage calculations. Impervious Coverage maximum shall be calculated based on the upland.
- K. Under the provisions and requirements as set forth in Section 414.5.2. In calculating the number of residential dwelling units permitted, the calculation shall be based on upland only. Any fractional units shall be rounded to the nearest whole number.
- L. Residential Density is calculated in addition to the commercial development of a mixed use development.
- M. Residential density limits apply to residential dwelling units, not to hotel, motel or other transient residential uses.
- N. Density may be increased to 20 units/acre for lots with 100,000 square feet or more of upland.

414.6.4 Dimensional Relief: The SPGA may provide dimensional relief from the provisions within the VCOD bylaw. ~~Said relief may be provided~~ through a Special Permit, except for relief from building height and maximum front yard setback, which would require a Variance. ~~for a reduction in minimum lot size, a reduction in minimum lot~~

~~frontage, a reduction in minimum front yard setback, a reduction in the minimum side yard setback, a reduction in the minimum rear yard setback, and an increase in maximum impervious coverage.~~ The SPGA shall consider the criteria listed under Section 414.3.3 (Special Permits) when reviewing any Special Permit application for dimensional relief. ~~Relief from any other dimensional requirements, including building height or maximum front yard setback, would require a Variance.~~ The SPGA shall not have jurisdiction over situations that are more specifically defined such as where relief is allowed by right or precluded under Section 414.4, or where the Table of Dimensional Requirements provides opportunity for relief related to flag shaped lots (footnote F).

414.6.5 Signs: No sign shall be erected nor maintained except as specifically allowed in Section 303 of the Town of Yarmouth Bylaw and in compliance with Section 414.8.11 (Signage).

### **414.7. – Parking Requirements**

#### 414.7.1 – Table of On-Site Parking Requirements

The following table shall apply to development proposals. Where on-street parking exists or is proposed along the lot line of any use, all spaces along that lot line shall be counted.

<b>Use (1)</b>	<b>Use Table Code (1)</b>	<b>Minimum Parking Spaces Required (2, 3)</b>	<b>Maximum Allowable Parking Spaces (3)</b>
Residential	A1, A2	1 space/unit	2 spaces/unit
	A5-A7	1 space/unit	1.2 spaces/unit
	A11, A12	1 space/unit	1.5 spaces/unit
Retail Trade	H10 (5)	1 space/3 occupants (4)	1 space/3 occupants (4)
	H1-H9; H11	1 space per 700 square feet of floor area	1 space per 350 square feet of floor area
Finance, Insurance, and Real Estate	I1-I5	1 space per 700 square feet of floor area	1 space per 200 square feet of floor area
Personal Services	J1-J5	1 space/4 occupants (4)	1 space/3 occupants (4)
Business Services	K1-K10	1 space per 1,000 square feet of floor area	1 space per 300 square feet of floor area
Motor Vehicle Services	L1, L3	1 space per 1,000 square feet of floor area	1 space per 300 square feet of floor area
Miscellaneous Repair Services	M1, M3	1 space per 1,000 square feet of floor	1 space per 300 square feet of floor area

		area	
Amusement and Recreation Services	N1-N12	1 space/4 occupants (4)	1 space/3 occupants (4)
Professional Services	O1	1 space/3 occupants (4)	1 space/2 occupants (4)
	O2-O6	1 space per 500 square feet of floor area	1 space per 250 square feet of floor area
Institutional Services	P1-P10(6)	As determined to be adequate by the Building Commissioner on advice by the Site Plan Review Team.	NA
Other (incl. uses N6, 9, 11 & uses not elsewhere classified)		As determined to be adequate by the Building Commissioner on advice by the Site Plan Review Team.	As determined to be adequate by the Building Commissioner on advice by the Site Plan Review Team.

Notes:

1. As listed in Section 202.5 Use Regulation Schedule.
2. Where a development proposal shows that a lot will only contain one structure, the proposal must demonstrate that the minimum amount of required parking shall be provided on-site.
3. Where parking spaces are based on occupancy, occupancy loads shall be tabulated in accordance with Massachusetts Building Code.
4. In cases where planned occupancy is to be below allowable occupancy, parking spaces may be constructed at a reduced number provided that the lot shall be capable of expansion to the spaces required in the table above. When the occupancy load of a building increases, the additional required spaces shall be constructed or identified.
5. Parking requirements for outside restaurant seating shall be calculated in the same manner as those for inside restaurant seating.
6. Parking for Day Care Centers: one parking space for every 8 children allowed at the facility, based on the maximum permitted occupancy, is required, plus 1 space for every 3 full-time employees.

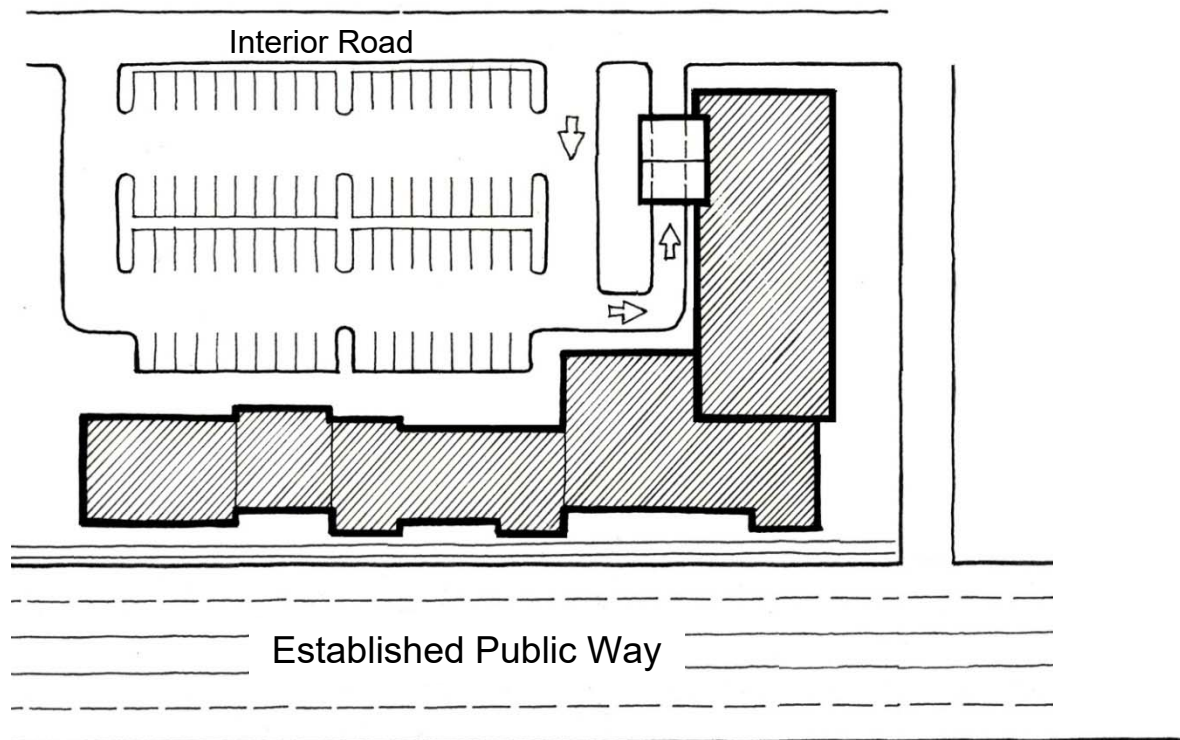
414.7.2 Loading Requirements. Adequate off-street loading facilities and space must be provided to service all regular needs created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Facilities shall be so sized and arranged that no vehicles need regularly back onto a public way or be parked on a public way while loading, unloading or waiting to do so.

414.7.3 Drive-through Facilities: Businesses utilizing drive-through facilities must provide stacking lanes pursuant to Section 301.8. Drive-through service windows shall



only be located on the side or in the rear of properties which are internal to the block or accessible from an alley. An acceptable configuration example is shown in Figure 1 below.

Figure 1. Example of acceptable drive-through configuration.



414.7.4 Shared Parking for Non-Residential Uses. Where an applicant cannot meet the minimum parking requirements on-site pursuant to Section 414.7.1 (Table of On-Site Parking Requirements), the applicant may present evidence to the Planning Board as part of Site Plan Review that the configuration of uses and parking areas will be adequate based on a shared parking analysis. While residential use may share parking as part of a mixed use development, reduction in parking spaces for residential use on-site shall not be allowed. Evidence that shared parking areas will be adequate for more than one non-residential use shall be in the form of calculations that show acceptable reductions based upon whether different uses compete for the same parking area as part of daily operations.

1. For Two Non-Residential Uses Sharing Parking Areas:
  - (a) Where peak parking demands for two non-residential uses overlap, the aggregate parking space requirement between those uses may be reduced by up to thirty (30) percent.
  - (b) Where peak parking demands for two non-residential uses do not overlap, the aggregate parking space requirement may be served exclusively by the higher parking demand associated with an individual use.

Sample Calculations for Parking Areas Serving Two Non-Residential Uses

Competing Uses

<b>1. Baseline Parking Demand Determination</b>		
Use	Building Size/Occupancy	Minimum Demand
Bank	3,000 square feet	4 spaces
Doctor’s Office Building	6,000 square feet	24 spaces*
Aggregate Parking Demand		28 spaces
<b>2. Reduction</b>		
30% Reduction		<b>20 spaces</b>

\*Based on assumed occupancy rate.

Non-Competing Uses

<b>1. Baseline Parking Demand Determination</b>		
Use	Building Size/Occupancy	Minimum Demand
Doctor’s Office Building	6,000 square feet	24 spaces*
Restaurant (dinner service only)	120 occupancy	40 spaces
Aggregate Parking Demand		64 spaces
<b>2. Reduction</b>		
Larger Individual Demand		<b>40 spaces</b>

\*Based on assumed occupancy rate.

2. For More than Two Non-Residential Uses:
  - (a) Where a proposed development would contain more than two non-residential uses and the applicant wishes to use shared parking to meet the minimum requirements of Section 414.7.1 (Table of On-Site Parking Requirements), the applicant shall first determine reductions for those uses with competing peak demands in accordance with the methodology in Section 414.7.4(1) (Shared Parking).
  - (b) The result of competing peak demand calculations shall then be compared to determine which set of competing demands shall be used to provide the overall parking space count. For example, daytime demands may exceed nighttime demands and, in that case, the daytime demand would serve as the overall parking demand for that site.

Sample Calculations for Parking Areas Serving More than Two Non-Residential Uses

Sample Mixed Use Plaza Profile:

- Medical Office (10,000 square feet)
- Grocery Store (14,000 square feet)
- Retail, Daytime (5,000 square feet)
- Restaurant, Dinner Only (90 occupants)
- Restaurant, Lunch and Dinner (60 occupants)
- Bank (5,000 square feet)

Step 1: Competing Uses (Daytime)

<b>1. Baseline Parking Demand Determination (Daytime Peak)</b>		
Use	Building Size/Occupancy	Minimum Demand
Medical Office	10,000 square feet	42 spaces*
Grocery Store	14,000 square feet	20 spaces
Retail, Daytime	5,000 square feet	7 spaces
Restaurant, Lunch and Dinner	60 occupants	20 spaces
Bank	5,000 square feet	7 spaces
Baseline Parking Demand		96 spaces
<b>2. Reduction Comparison (Daytime Peak)</b>		
30% Reduction		<b>67 spaces</b>

\*Based on assumed occupancy rate.

Step 2: Competing Uses (Nighttime)

<b>1. Baseline Parking Demand Determination (Daytime Peak)</b>		
Use	Building Size/Occupancy	Minimum Demand
Restaurant, Lunch and Dinner	60 occupants	20 spaces
Restaurant, Dinner Only	90 occupants	30 spaces
Grocery Store	14,000 square feet	20 spaces
Baseline Parking Demand		70 spaces
<b>2. Reduction Comparison (Nighttime Peak)</b>		
30% Reduction		<b>49 spaces</b>

Step 3: Non-Competing Uses (Nighttime vs. Daytime)

Daytime Demand	<b>67 Spaces (larger demand is chosen)</b>
Nighttime Demand	49 Spaces

414.7.5 Off-Site Parking for Residential or Non-residential Use. Where an applicant cannot meet the minimum parking requirements on-site pursuant to Section 414.7.1 (Table of On-Site Parking Requirements), the applicant may present evidence to the Planning Board as part of Site Plan Review that supplementary parking in the amount

required to meet or exceed the minimum standard will be provided off-site. The Planning Board may approve off-site provision of up to 100% of the required on-site parking provided the following conditions are met:

1. Any parking required to meet the provisions of the Americans with Disabilities Act is provided on-site.
2. At least one parking space with a width of ten (10) feet shall be provided in close proximity to the primary structure to allow for loading and unloading of goods, people, and/or deliveries. Additional such parking spaces may be required on-site depending on the size and use of the development.
3. The off-site parking area shall be within 500 feet walking distance from the building which it will serve. The distance between the off-site parking and the building it is intended to serve shall be measured along an established pedestrian route from the nearest edge of the building to the nearest edge of a parking space. The pedestrian route shall be well-finished, safe, and unobstructed.
4. Where off-site parking is proposed, applicants shall provide a signed agreement between the property owners clearly stating the terms of the agreement to allow for parking access. Where the agreement may have an expiration date, failure to renew or to provide other acceptable arrangements shall place the subject property in non-conformity with regard to parking requirements.

414.7.6 Bicycle Parking. Bicycle parking facilities shall be provided within the development.

414.7.7 Exceeding the Parking Maximum. An applicant who wishes to provide more parking than the maximum allowable standard in Section 414.7 (Parking Requirements) on-site may do so in accordance with the following:

1. Exceeding the maximum may occur by-right through the provision of underground parking or through the use of structured elevated parking.
2. Exceeding the maximum may be allowed by the Building Commissioner upon unanimous recommendation in writing by the Site Plan Review Team if it is determined that special circumstances render a larger maximum provision necessary for typical parking needs.
3. Exceeding the maximum may be allowed through a Special Permit granted by the Board of Appeals.
4. In making any determination, the permitting authority shall consider present, as well as proposed and potential future parking needs, and such determination and/or special permit may contain any restrictions, limitations or conditions reasonably necessary to carry out the intention and purpose of this bylaw. Such restrictions, limitations, and conditions may include, among other things:
  - a. Provisions for establishing maximum allowable occupancy.

- b. Provisions for expiration or forfeiture of the determination/permit upon stated conditions or upon substantial change of the "special circumstances" upon which the determination/permit was granted.
- c. Provisions limiting the duration.
- d. Such other provisions as are reasonably related to pursuing and carrying out the intent and purposes of this bylaw.

The burden of proof shall be on the applicant to demonstrate to the Town that there is evidence demonstrating a clear, regular need for such parking, that the purposes of this district are maintained, and that the design of these parking areas complies with the provisions of this section of the Zoning Bylaw.

**414.7.8 Parking Lot Design Standards.**

- 1. Relationship to Section 301 (Parking and Loading Requirements) of the Zoning Bylaw

Standards related to parking area design located in Section 301 of the Zoning Bylaw shall not apply to VCOD development.

- 2. Parking Space and Travel Lane Dimensions

For the purposes of this Bylaw, minimum parking space and travel lane dimensions for surface parking areas shall comply with the following table. Parking spaces and travel lanes in structured parking facilities may use different dimensions as may be necessary to construct the facility and provide safe passage for vehicles parking therein.

**Minimum Parking Space and Travel Lane Dimensions**

Parking Angle	Stall Width (parked car width)	Stall Depth*	Travel Lane (one way)	Travel Lane (two way)
<b>Parallel</b>	10.0'	22.0'	12.0'	24.0'
<b>45°</b>	10.0'	16.0'	11.0'	21.0'
<b>60°</b>	10.0'	17.0'	15.0'	21.0'
<b>75°</b>	10.0'	17.5'	17.0'	21.0'
<b>90°</b>	10.0'	18.0'	22.0'	24.0'

\*Parallel parking depth is measured as the length of the space parallel to the adjacent travel lane. All other stall depth values are measured perpendicular to the adjacent travel lane.

All parking areas shall be designed with enough maneuvering space so that vehicles need not back onto a public way, the required screens, buffers, tree plots or other parking spaces. Driveways subject to this section shall have two hundred fifty (250) feet visibility in each travel direction and shall be comprised of two (2) travel lanes each not more than twelve (12) feet nor less than ten (10)

feet in width; a minimum curb radius of 25 feet shall be provided.

### 3. Landscaping Requirements

Landscaping of parking areas shall be provided in accordance with the requirements in Section 414.8.9. The landscaping requirements in this section are intended to provide a set of standards toward reducing the visual impacts of large areas of pavement, improving the overall environment of parking areas by providing areas for shade and heat reduction, and enhancing the overall aesthetic appeal of parking areas.

### 4. Parking Garages/Structures

Parking garages/structures or entrances to such facilities shall not be located along the frontage of Route 28. On lots with frontage on Route 28, these structures shall be set back behind other buildings or integrated into the structural design of those buildings along the arterial frontage. All other dimensional requirements shall apply.

## **414.8. – VCOD Design Standards**

Applicants for new development or redevelopment who elect the use of VCOD provisions relative to use, intensity of use, buildings, parking and other applicable standards provided as part of this section of the Zoning Bylaw shall comply with the following design standards. Compliance with these standards shall be demonstrated through Site Plan Review materials as required in the Operational Regulations of the Yarmouth Planning Board. Members of the Site Plan Review Team, the Design Review Committee, and the Planning Board shall also use the most recent version of the Town of Yarmouth Architectural and Site Design Standards to review applications within the VCOD. Compliance with the Yarmouth Architectural and Site Design Standards shall be mandatory for all VCOD projects. The VCOD Design Standards are to be applied to an entire site and existing and new buildings and structures on a site; it is not the intent of the VCOD Standards to allow for partial site compliance. The Planning Board, through the VCOD SPR process, may alter or waive one or more of the requirements of Section 414.8 and the Architectural and Site Design Standards if it finds that the alteration or waiver of the requirement(s) substantially adheres to the intent and purpose of this section of the bylaw.

### 414.8.1. Site Design.

The location of buildings, parking areas, walkways, outdoor gathering places, landscaping, utilities, loading areas, dumpsters, automobile access, travel lanes, and signs shall reflect a thoughtful approach that focuses primarily on providing optimal access and mobility for pedestrians on and between sites. The following standards shall apply:

1. Parking areas shall be located to the rear and/or side of structures. Parking on the side of structures shall be located behind the minimum front yard setback shown in Section 203.5 – Table of Dimensional Requirements; or behind the maximum front yard setback for properties fronting on Route 28 as shown in Section 414.6.3 – Table of Dimensional Requirements. Driveways and travel lanes shall not be allowed within the front yard setback with the following exceptions:
  - a. Driveways connecting the property to the street and running perpendicular to the lot line, which are used to access parking areas to the side or rear of the building, are allowed in the front yard setback.
  - b. In VC2, where adequate buffers are provided pursuant to the landscaping requirements of this bylaw, a travel lane may be allowed in the front yard setback along any public way established prior to October 22, 2012.
2. Parking areas shall allow for easy access between lots for automobiles and pedestrians. Where feasible, parking lots shall be connected by a travel lane within the rear yard to provide an opportunity for pedestrians and motorists to pass from one site to another without using established rights of way.
3. Where an adjacent lot is not yet developed or the design of an adjacent lot precludes the ability to connect parking areas from one lot to another, the applicant shall identify on Site Plan Review materials the location where a future connection could take place.
4. ~~Within the front yard setback, e~~Clear pedestrian pathways shall be provided between buildings, from the development to public ways, and across automobile driveways, ~~in the form of raised or distinct surfaces such as stamped concrete or grid pavers, arcades, colonnades or other similar features.~~ Where there are existing sidewalks along Route 28, the design of the VCOD development shall provide accommodations for future expansion of 6' wide sidewalks onto the property along the entire frontage abutting Route 28. When no sidewalk exists, ~~t~~The developer shall provide a minimum six (6) foot wide sidewalk on the project property along the entire frontage abutting Route 28. ~~Where the sidewalk surfacing may be interrupted with cut outs for street trees, the minimum sidewalk width shall be eight (8) feet. When proposing different sidewalk materials, the applicant shall demonstrate a consistent design with sidewalks on neighboring properties where those sidewalks are consistent with the objective of the VCOD.~~ Applicants are encouraged to explore opportunities to reconfigure existing sidewalks to better accommodate pedestrian and/or bicycle traffic.
5. Pursuant to Section 401.3, outdoor display of retail goods shall only occur along the façade of those commercial or mixed use structures where the goods are sold, shall not be within a public right of way, and shall not occur outside of normal business hours. No outdoor display of goods shall occur in a manner that precludes a minimum four (4) foot wide clear pedestrian passage along the sidewalk.
6. In complexes with multiple principal buildings, landscaped areas with walkways, courtyards or arcades shall be used in conjunction with compact site design to bring buildings closer together and enhance connectivity between them for residents and customers.

7. Building placement on lots adjacent to the Parkers River shall be set back in a manner that preserves viewsheds to the river from the public right of way to the maximum extent practicable. Buildings shall have their narrowest profile oriented to the street where such orientation will increase visibility to the river from the street. Any building located within 100 feet of the intersection of Parker's River and Route 28 shall be set back from Route 28 a minimum of 30 feet.

#### 414.8.2 Circulation Standards.

1. Pedestrian connections between buildings shall be provided as safe, broad and easily identifiable ways of walking through areas that may also be occupied by automobiles. These walkways shall be designed to clearly show the space is primarily dedicated to pedestrian traffic through the use of raised or alternative surfaces, signage or raised landscaped islands that may serve as a safe resting area for pedestrians between automobile travel lanes.
2. Travel lanes and driveways developed interior to the site shall incorporate speed reduction techniques where travel lanes are adjacent to the edge of a building. Where a travel lane will be used solely for the purposes of loading or other maintenance activities, these features shall not be required. Speed bumps, raised cross walks, or other traffic calming measures shall be provided at a minimum frequency of one for every seventy (70) feet along the building edge.
3. If determined necessary through the VCOD SPR process, travel lanes within VCOD development shall make provision for bicycle travel. Lanes shall either be designed to show a dedicated bicycle lane(s) distinct from automobile travel lanes, at a minimum of four (4) feet in width, or coincident travel of bicycles and automobiles may be indicated with striping or shall incorporate bicycle sharrows (pavement markings).

#### 414.8.3 Building Size and Modulation.

1. In order to modulate their scale, multi-story buildings shall clearly articulate the base, middle and top of the building through the use of cornices, stepbacks, borders of distinct material or other articulating features on every visible surface of the building.
2. Larger buildings with long façades shall articulate the façade with varied rooflines, distinct signage for multiple tenants, awnings, arcades, pilasters, columns, recessed spaces and/or entrances and any other features that serve to add texture to these longer façades. Unbroken façades in excess of fifty (50) feet shall not be allowed.
3. Large, flat, unadorned, blank walls shall not be allowed for any side or rear walls of buildings except where a rear wall is accessible only to service vehicles. Windows are required in sidewalls for buildings that front on Route 28. Where windows are not feasible for other buildings, raised or recessed vertical surfaces may be used in conjunction with awnings, window-shaped depressions and decorative lighting to make these surfaces more attractive.
4. Awnings shall be made of canvas and/or weather-coated materials. Awnings



along continuous building lines that are separated shall be distinct from one building to another. Continuous awnings may only be allowed over a maximum of three contiguous storefronts.

#### 414.8.4 Entranceways.

1. All buildings shall have a principal façade and entry (with operable doors) facing a street or other area dedicated to pedestrian circulation. Buildings may have more than one principal façade and/or entry. Primary entrances not facing a street shall open onto sidewalks or other pedestrian features at least ten (10) feet in width.
2. Main entrances shall incorporate architectural features that draw attention to the entrance. These features may include covered porches, distinct sidewalk surfacing, porticos, recessed doorways and awnings.
3. For commercial use, Sstreet level frontage shall be primarily devoted to entrances, shop windows or other displays. Street level frontage that incorporates setback areas beyond the minimum required in Section 414.6.3 (Table of Dimensional Requirements) shall incorporate seating and trash receptacles that are accessible to pedestrians to the extent practicable.

#### 414.8.5 Fenestration.

1. ~~The width to height ratio of b~~Bays in façades above ~~street~~ the ground floor level shall typically be ~~a minimum of 1:2~~double hung, except where acceptable design features or dormer variations may require a different ratio or style. Multiple bays may be placed immediately adjacent to one another in order to create larger window areas.
2. For commercial use, windows on the ground floor shall begin no lower than two (2) feet from street level and shall extend at a minimum height of seven (7) feet from street level. Windows may be closer to street level where they serve as a secondary entrance to outdoor seating or similar areas.
3. Mullion pattern and thickness shall reflect traditional New England design with broad decorative surfaces between windows. Highly reflective or industrial finish mullions are prohibited.
4. For commercial use, clear, non-reflective glass with minimal tinting shall be used at street level to allow maximum visual interaction between pedestrians and the interior of the building.
5. For commercial use, street level façades shall have a transparency of at least sixty (60) percent.
6. For commercial use, all windows (except storefront windows) shall be operable.

#### 414.8.6 Dormers.

1. On pitched rooflines of 50' or more in length, dormers or other architectural elements shall be used to break up roof surfaces.
2. Dormer styles may include doghouse, eyebrow or shed dormers.

3. Windows shall fill the face wall of the dormer to the maximum extent practicable and match the architecture of windows in the rest of the building.

414.8.7 Roofline Articulation. Roof design shall provide a variety of building heights and varied roofline articulation.

- ~~1. Acceptable r~~Roof models ~~in VC 1 and 2~~shall include such styles as gables, gambrels, hip roofs, ~~and any jointed configuration of these styles.~~
- ~~2.1. Acceptable roof models in VC 3 and 4 include gables, gambrels,~~ mansards, and flat roofs. Where flat roofs are proposed, these rooflines shall have decorative cornices, ~~or~~ parapets or other architectural elements that extend from the roof edge to provide a decorative and articulated edge, and screen roof mounted equipment.
- ~~3.2.~~ Decorative spires or towers may also be used to articulate rooflines and to provide focal points within a complex of principal buildings.
- ~~4.3.~~ Industrial style metal roofing visible from the street shall not be permitted. Metal roofing that uses decorative finishes and textures may be used to accent individual architectural features such as roof trim, window bays or other projecting features.
- ~~5.4.~~ Downspouts shall match gutters in material and finish.
- ~~6.5.~~ Utilities and protuberances through or on the front of roofs are highly discouraged and should generally be shielded from view.

414.8.8 Building Materials. Materials and building treatments shall be used that reduce the visibility of buildings from distant vantage points and shall be consistent and compatible with traditional New England design as follows:

1. Where more than one material is used, traditionally heavier materials (stone, brick, concrete, etc.) shall be located below lighter materials (wood, fiber cement board, siding, etc). The change in material shall occur along a horizontal line, preferably at the floor level.
2. Natural materials, such as brick, stone, wood/concrete clapboards and shingles, and slate are the preferred materials for building siding and trim. Vinyl, PVC, cementitious, or other synthetic materials may be used for siding and trim where these applications imitate traditional materials such as clapboard or shingling. The burden of proof shall be on the applicant to demonstrate that the quality of the imitation material complies with the purpose of the bylaw. Industrial materials such as unfinished concrete, sheet metal, asphalt shingles (except for roofing), and insulated steel doors shall not be used except where essential to the proper function of a building feature as related to safety, security or proper mechanical function.

414.8.9 Landscaping. All areas of a site that are not used for structures, parking, circulation, or other hardscape amenities shall be landscaped. Landscaping may occur as installed or retained vegetation in accordance with the following standards.

1. *Plant Selection.*

- a. No tree, shrub or plant shall be proposed that has been identified as an Invasive Species by the Massachusetts Plant Advisory Group in the latest version of *The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list)*, has been identified as invasive or banned on the *Massachusetts Prohibited Plant List* as periodically updated by the Massachusetts Department of Agricultural Resources, or in any other reputable scientific publication that may be acceptable to the Board.
- b. Landscaping shall be designed to remain functional and attractive during all seasons through a thoughtful selection of deciduous, evergreen, berrying and flowering plant varieties. Applicants are encouraged to consult the latest version of *The Vascular Plants of Massachusetts: A County Checklist* as published by the Massachusetts Division of Fisheries and Wildlife and Natural Heritage & Endangered Species Program to determine which plants are native to Barnstable County.
- c. Plant varieties shall be selected for resistance to drought, moisture, salt, urban conditions, or insects and other pests depending on the location of landscaping and the specific stressors anticipated for different areas of the site. Plants shall be selected so that landscaping can be maintained with minimal care and the need for watering, pesticides or fertilizers can be minimized or eliminated. Applicants are encouraged to consult **The Massachusetts Nursery and Landscape Association's *Pocket Guide to Native and Low Maintenance Woody Plants***.
- d. The use of turf shall be minimized and shall not be planted in strips less than six (6) feet wide. Lawn seed mixes shall be drought resistant. To achieve a high level of drought tolerance, lawn mixes may include, but shall not be limited to, a predominance of fine fescues.

2. *General Standards.*

- a. Where landscaped areas do not include planted materials, other decorative materials or features shall be used such as walkways, gathering places, or areas for public art. Unplanted areas shall not be filled with uniform gravel applications or riprap unless approved as part of stormwater management practices.
- b. Landscape features shall provide a clearly defined edge between the vegetated areas and areas reserved for pedestrian or automobile travel through the use of hardscape elements that may include, but shall not be limited to, fencing, curbing, or decorative stone.
- c. Any free-standing electrical structures, HVAC structures, or waste receptacles (e.g., dumpsters, grease traps, etc.) shall be fully screened from view through the use of evergreen vegetation, fencing, or a combinations thereof.

3. *Buffers.*

- a. Landscaping shall be required between VCOD developments and

- residentially zoned areas with no less than a twenty (20) foot wide buffer.
- b. Within the twenty (20) foot buffer to a residentially zoned area, a vegetated, virtually opaque screen shall be provided by a minimum six (6) foot wide planting strip maintained with densely planted shrubs not less than six (6) feet in height, except as allowed under paragraph f below. Shrubs shall be at least seventy-five percent (75%) evergreens however the use of tall, monoculture, and uniformly planted rows of evergreens or other similar species shall not be used.
  - c. The area of the buffer to a residentially zoned area that is not dedicated to the provision of a virtually opaque screen shall be landscaped in accordance with the other applicable standards of this bylaw.
  - d. Fences or walls may be a part of the required screening where deemed necessary, and as approved by the Town.
  - e. Earthen berms may be used in the buffer design, provided such side slopes are adequately stabilized by vegetation.
  - f. Breaks in the buffer may also be incorporated into the design to provide for water access and/or water views, and where designated pedestrian or bicycle crossings or other features specifically designed to provide attractive visibility or connections to surrounding neighborhoods are part of the approach to site-wide circulation.
  - g. Trees shall be planted in buffer areas and along frontage lines at a minimum frequency of one every thirty (30) linear feet measured along the buffer or lot line.

#### 4. *Parking Areas.*

- a. Developments with proposed parking areas of six (6) spaces or more shall provide a minimum of ten percent (10%) of landscaped open space within the area designated for parking inclusive of any landscaped borders surrounding the parking lot. Parking garages/structures shall not be subject to this requirement.
- b. The ends of parking aisles in surface lots that are more than fifteen (15) spaces in length shall incorporate landscape islands at either end of the row. Each island shall include at least one tree. Where the length of a parking aisle exceeds twenty-five (25) spaces, additional landscaped islands shall be installed at regular intervals. This interval shall not be more than every thirteen (13) spaces. Where arced semi-circle islands, triangles or similar shapes are proposed, the width of landscaped islands perpendicular to adjacent spaces shall be no less than eight (8) feet at their widest point. Where oval shaped islands are proposed, the width of the island shall be no less than six (6) feet.
- c. Trees shall be selected and placed in landscaped areas so that all parking areas can reasonably be expected to receive 30% canopy coverage. The expected canopy radius of each selected tree shall be noted in the required site plan materials.
- d. Parking areas for five (5) or more cars or any travel lane shall be separated from any other property line interior to the VCOD by a minimum

ten (10) foot wide landscaped buffer. The width of this buffer may be reduced, or the buffer may be eliminated entirely, where the applicant can demonstrate that the reduction or elimination of such buffer will not cause nuisance or undue harm to abutting properties and is specifically designed to:

- i. Improve pedestrian, bicycle and/or vehicular circulation and/or reduce curb cuts;
  - ii. Allow for the placement of driveways and/or buildings in a manner that better meets the design standards in Section 414.8 (VCOD Design Standards);
  - iii. Anticipate improvements to abutting properties that will be complementary to the alternative buffer design.
- e. Parking areas or travel lanes that extend to a property line and lie adjacent to any sidewalk on a public way shall be separated from the sidewalk by a minimum twelve (12) foot wide landscaped buffer. This buffer shall be designed to provide separation between the parking area and the sidewalk while maintaining visual awareness between the two areas. The parking area shall not be fully screened from the pedestrian way. Separation may be achieved through the use of low fencing, trees that maintain a canopy height of at least eight (8) feet, and/or low lying shrubs that will not exceed three (3) feet in height. The buffer may be interrupted by breaks designed to provide pedestrian connections from the parking area to the sidewalk.

#### 5. *Sight Lines.*

- a. With the exception of street trees, no hedge or other vegetation over three (3) feet in height above the adjacent ground shall be maintained within eight (8) feet of any street lot line unless the Town finds that such vegetation will not restrict visibility in such a way to hinder the safe entry of a vehicle from any driveway to the street.
- b. At no street intersection in any district shall an obstruction to vision exceeding two and one-half (2.5) feet in height above the street grade be placed or permitted to grow on any lot within the triangle formed by the street lot lines abutting the intersection and a line connecting points on these street lot lines at a distance of thirty-five (35) feet from the point of intersection of the street lot lines.

#### 6. *Tree Specifications.*

- a. All proposed shade or canopy trees shall have a minimum 3" caliper.
- b. Shade or canopy trees shall not be less than twelve (12) feet in planted height above grade.
- c. Ornamental or flowering fruit trees shall not be less than seven (7) feet in planted height above grade unless specific dwarf varieties have been selected that require the planting of a smaller specimen.

- d. Evergreen trees used for screening shall not be less than six (6) feet in planted height above grade;
- e. At the time of planting, shrubs shall be well established and shall stand at least one (1) foot tall above grade.
- f. All plant materials shall be hardy to the appropriate temperature zone as defined by the American Standards for Nursery Stock.
- g. Any existing trees of four-inch (4") caliper or greater shall be retained where they are coincident with proposed landscaping areas. Such trees shall be removed if they are identified as an invasive species or if their health is clearly compromised at the time of application.
- h. Trees that are included in any landscaping plan, which die subsequent to development, shall be replaced.

7. *Decorative Walls and Fencing*

- a. Chain link fencing shall be prohibited in all districts unless it is necessary for compliance with security purposes unique to an individual use, is vinyl coated, and completely screened from view through the use of opaque evergreen trees or through a second layer of wooden fence material.
- b. In all districts, decorative fencing associated with commercial or mixed use properties may be wooden or vinyl where simulated picket or rail fence designs are used. Where wooden or vinyl fencing associated with commercial or mixed use is used, the fencing shall not be opaque, and shall not exceed four (4) feet in height except where screening utilities or waste receptacles in accordance with Section 414.8.9(2.) Fencing for structures that are exclusively residential (including hotel) may also be wooden, but may be opaque and up to six (6) feet tall. Such fences for residential areas shall only be allowed in the side or rear yard setbacks.
- c. In VC 1 and 2, decorative free-standing (not "retaining") walls shall not exceed three (3) feet in height and shall be constructed of natural stone material in a manner that resembles traditional early New England stone walls. Masonry binder material may be used to secure stones, but shall not be visible on the sides of the wall. Bricks shall not be used in VC 2 for the construction of decorative walls.
- d. Only in VC 3 and 4, decorative fencing associated with commercial or mixed use properties may be steel, cast aluminum, or other similar finished metal material (customarily used to imitate traditional cast iron fencing). These fences shall not be opaque and shall not exceed five (5) feet in height except where screening utilities or waste receptacles in accordance with Section 414.8.9(2). Posts shall be constructed of brick or stone.
- e. In VC 3 and 4, decorative free-standing (not "retaining") walls shall not exceed four (4) feet in height and may be constructed of bricks or cut stone material.

414.8.10 Lighting. In addition to any applicable standards for lighting associated with parking areas or signs, the following shall apply. Limitations on the height of lighting shall be measured to the highest point of the light structure.

1. In VC 1 and 2, light standards for lights along public roads shall not exceed twelve (12) feet in height and may only include one (1) fixture per light standard. Lights in rear or side parking areas shall not exceed fifteen (15) feet in height and may include multiple fixtures per light standard;
2. In VC 3 and 4, light standards shall not exceed sixteen (16) feet in height and may include multiple fixtures per light standard;
3. Traditional New England “period” light posts and fixtures shall be used. Such lighting shall be decorative in shape, scale, and finish, with detailed, articulated treatments for the base, post, fixture and crown. Lighting shall not use standard industrial-finish poles or shades. Applicants are encouraged to reference the discussion of lighting poles and fixtures within the Cape Cod Commission’s *“Designing the Future to Honor the Past, Design Guidelines for Cape Cod.”*
4. Lighting installed or directed at the ground level shall not exceed a lumen density of 50,000 lumens per acre of developed area.
5. In commercial or mixed use development, trespass of light at property boundaries shall not exceed 0.1 foot candles. Where commercial or mixed use development abuts a residential district, trespass of light at that boundary shall not exceed 0.05 foot candles.
6. In development areas that are exclusively residential, trespass of light at property boundaries shall not exceed 0.05 foot candles.
7. At driveways, lighting may be up to 0.5 foot candles at the property line adjacent to a roadway.
8. Non-decorative lighting shall be tinted amber or in some manner acceptable to the Town in order to reduce the glare that would otherwise emanate from standard white bulbs and clear lenses.

414.8.11 Signage. The following standards for signage are provided as a supplement to existing standards in the Zoning Bylaw (Section 303 - Signs). Where there may be a perceived conflict between these two sections, the following standards shall apply.

1. Signs shall not be located in a dedicated pedestrian or bicycle way or in any manner that interrupts intended patterns of pedestrian/bicycle circulation.
2. Wall mounted or projected signs shall be located above the ground floor storefront and just below the second floor windows. Signs shall be integrated by structural design and finish with the design of the building and shall not obscure architectural features or windows.
3. Projecting signs shall be located to provide a minimum of 8’ of clearance, shall not exceed 4 square feet in size and shall not project more than 4’ from the building. Projecting signs used to advertise businesses on the second floor space shall be in addition to allowed wall signs and free standing signs.
4. Window signs are allowed in accordance with Section 303.5.3 but may only be wooden, corkboard, or chalkboard signs hanging or posted inside the building or stenciled lettering.
5. Sign colors should be selected to enhance sign legibility for both day and nighttime viewing consistent with the requirements of Section 303.5.4.3. Sign

colors and finishes shall be compatible with the color of the building or development.

6. Sign materials shall be of high quality and compatible with the design of the building and façade on which they are placed.
7. Externally illuminating signs shall have downward-directed, wall mounted lights with fully-shielded decorative lamps that do not obscure the graphics of the sign.
8. Internally illuminated plastic or fiberglass cabinet (can) signs are not allowed. Where back-lighting is proposed, solid letters (reverse channel or halo) shall be used.
9. Signage on awnings is permitted only on the apron portion of the awning for business identification or to advertise particular goods and/or services.
10. Size of free-standing signs shall adhere to Section 303.5.4. Free-standing, single pole (lollipop) signs are not allowed. ~~Free-standing monument or structured signs are only allowed in VC 2, 3 and 4. Where these signs are located at the entrances to plazas or centers with multiple tenants, the size shall not exceed the area required to hold a sign for each tenant that measures up to three (3) square feet, and in no case shall the total area of the sign exceed forty-eight (48) square feet. Where a free-standing sign is used for a single tenant, the area of the sign shall not exceed twenty-four (24) square feet.~~ Free-standing signs shall incorporate design details, materials and colors of the associated buildings. The base or support elements of free-standing signs shall be integrated with the surrounding environment, contribute to the functionality of pedestrian features and incorporate ornamental landscaping where possible.
11. Gateway signs as defined in Zoning Bylaw Section 303 (signs) shall be allowed within the VCOD.
12. Neon signs are not allowed.



**Yarmouth Planning Board Committee Assignments  
As of July 2022**

<i>Committee</i>	<i>Sept 2021-2022 Assignments</i>	<i>Sept 2022-2023 Assignments</i>
Affordable Housing Trust (AHT) (full-time)	Brad Goodwin	
Capital Budget Committee (CBC) (full-time)	Will Rubenstein	
Community & Economic Development Committee (CEDC) (full-time)	Joanne Crowley	
Community Housing Committee (CHC) (full-time)	Brad Goodwin	
Community Preservation Committee (CPC) (full-time)	Joanne Crowley	
Design Review Committee (DRC) (full-time)	Chris Vincent	
Drive-In Site Utilization Committee (DISUC) (part-time)	Susan Brita	
Land Disposition Committee (part-time)	Jim Saben	
Water Resources Advisory Committee (WRAC) (full-time)	Joanne Crowley	

*Notes:*

*CEDC = Community & Economic Development Committee*

*CHC = Community Housing Committee*

*CPC = Community Preservation Committee*

*AHT = Affordable Housing Trust*

**Town of Yarmouth**  
**MINUTES OF THE PLANNING BOARD MEETING OF**  
**August 17, 2022**

The Yarmouth Planning Board held a Hybrid in-person/remote access Business Meeting at **5:30** p.m. on Wednesday **August 17, 2022** in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

**Planning Board Present:** Chris Vincent, Susan Brita, Jim Saben, Joanne Crowley, and Will Rubenstein

**Planning Board Absent:** Brad Goodwin

**Staff Present:** Kathy Williams, Town Planner; and Mark Grylls, Building Commissioner

1. **Meeting Opening:** Chair Joanne Crowley opened the hybrid meeting at 5:33. Planning Board members were in-person, except Will Rubenstein who was remote. All votes were roll call votes.
2. **Zoning Amendments for Special Town Meeting (STM):** Discussion on minor housekeeping amendments to the VCOD Overlay District for fall town meeting.

Joanne Crowley gave a brief introduction to proposed zoning amendments for Section 414-VCOD. She noted that although the Planning Board was not planning on having any zoning amendments for the fall Special Town Meeting, some amendments are being proposed after reviewing the Riverwalk Park project and municipal Pump Station which are located in FEMA Flood Zones.

Kathy Williams gave an overview of the attached August 16, 2022 outlining 10 potential minor amendments to the VCOD based on experience from a handful of VCOD projects, the 2014 update to the FEMA Flood Insurance Rate Maps, updated building code, and review of upcoming projects.

- a. **414.6.1 – Building Height, Note (A) - Placement of Fill:** The Planning Board discussed the proposed modification allowing for further flexibility in filling sites more than 4' within FEMA Flood Zones by requiring a permit from the Building Commissioner per the existing zoning bylaw Section 302.1, rather than requiring a variance in the VCOD. After a general discussion, the consensus of the Board was to move forward with the amendment as proposed.
- b. **Section 414.6.3 – Table of Dimensional Requirements:** The Planning Board discussed increasing the maximum front yard setback in the VC1 for 20' to 25' for projects located within a FEMA Flood Zone. In flood zones, there may be larger grade changes from the sidewalk to the first floor elevation and having a greater distance would be helpful. After a general discussion, the consensus of the Board was to move forward with amending the maximum front yard setback to 25' in the VC1 for projects located within a FEMA Flood Zone.
- c. **Section 414.8. – VCOD Design Standards:** The Planning Board discussed allowing more flexibility in complying with the VCOD Design Standards by allowing for the Board to waive certain design standards within Section 414.8 and within the Architectural and Site Design Standards. After a general discussion, the consensus of the Board was to move forward with the change, but rewording it to allow waivers if they substantially adhere to the intent and purpose of the bylaw, and to obtain input from Town Counsel on whether there are any issues with allowing this through the VCOD SPR process. Susan Brita also mentioned inquiring of Town Counsel whether a supermajority (rather than the current majority) could be required when waivers are given to the design standards, although not all Board members were in favor of requiring a supermajority.

- d. **Section 414.8.1.4 – Sidewalks along Route 28:** The Planning Board discussed modifications to the requirement for construction of a sidewalk along the entire Route 28 frontage of VCOD projects and whether that makes sense for properties where there is an existing sidewalk, and whether the type of sidewalk needs to be so specifically defined. After a general discussion, the consensus of the Board was to amend this section to require 6' sidewalks where no sidewalks currently exist, to require the project to accommodate a future 6' sidewalk on their property if a sidewalk exists (allowing for future expansion of the road layout) and to not specify the type of sidewalk as this is often governed by MassDOT.
  - e. **Section 414.8.4.3 – Entranceways:** The Planning Board discussed applicability of this section for non-commercial projects (i.e. public restrooms, pump stations) which would not have shop windows and other displays on the street level. After a general discussion ensuring that there would still be street front entrances and no blank walls, the consensus of the Board was to amend this section to refer to commercial uses.
  - f. **Section 414.8.6 – Dormers, Paragraph 1:** The Planning Board discussed the requirement for dormers on pitched rooflines, and that other architectural elements such as cupolas may also be appropriate, especially on smaller buildings. After a general discussion, the consensus of the Board was to specify the use of dormers or other architectural elements on pitched roofs of 50' or more in length.
  - g. **Section 414.8.7 – Roofline Articulation, Paragraph 1:** The Planning Board discussed the different type of rooflines allowed in each of the villages. After a general discussion, the consensus of the Board was to allow all the types of rooflines listed in all the villages, including hip roofs and adding language about hiding equipment on flat roofs.
  - h. **Section 414.8.9.3 – Buffers, Paragraphs b and f:** The Planning Board discussed buffer requirements when properties abut residential zoning districts which require an opaque screen which may not be appropriate for properties along Parkers River. After a general discussion, the consensus of the Board was to allow for breaks in the buffers to provide water access or views.
  - i. **Section 414.7.11 – Signage, Paragraph 10:** The Planning Board discussed the reference to free standing monument or structured signs that are not allowed in the VC1. After a general discussion, the consensus of the Board was to eliminate the section related to free-standing monument signs. The Board also had a brief discussion on murals and public art which may need future zoning amendments to allow them.
  - j. **Section 414.6.4 – Dimensional Relief:** The Planning Board discussed allowing more relief to be given via Special Permit rather than requiring a Variance for even minor deviations. After a general discussion, the consensus of the Board was to allow all relief via Special Permit, except for building height and maximum front yard setback, which would require a Variance. No use Variances are allowed in the VCOD.
3. **Meeting Minutes:**
    - a. **August 3, 2022:** On a motion by Susan Brita, and seconded by Jim Saben, the Planning Board voted (4-0-1) to approve the meeting minutes of August 3, 2022, with Jim Saben, Susan Brita, Joanne Crowley, and Will Rubenstein voting in favor, and Chris Vincent abstaining.
  4. **Board of Appeals Agenda & Decisions:** The attached ZBA Agenda and Decisions were sent to the Planning Board via e-mail.
  5. **Committee Updates from Board Members:**
    - a. **School Building Committee:** Will Rubenstein noted that the middle school project is still on schedule with the move in date being in January. He also noted the traffic signal on Station Avenue was being installed.

- b. **Library Planning Committee**: Will Rubenstein noted that the LPC will be meeting with Assistant Town Administrator Bill Scott in the coming weeks to discuss a community needs assessment for the Library.
  - c. **Water Resources Advisory Committee (WRAC)**: Joanne Crowley indicated the WRAC met on August 15th with CDM-Smith and Wright Pierce to review the type of treatment for the Water Resource Recovery Facility (WRRF) and ultimately voted to go with the recommendation of the consultant, OPM and Town Staff to utilize Sequencing Batch Reactors (SBRs). This type of treatment allows for more flexibility for treating our varying wastewater flows throughout the year. The SBRs were chose over Membrane Bioreactors (MBRs). She also noted that Phase 1 will be broken up into six (6) contracts. The WRAC will also be conducting public outreach session this fall.
6. **Board Member Items**: Joanne Crowley noted the July 26<sup>th</sup> e-mail received from Donald Almonte regarding a proposed house on Crow Street and the issue of redevelopment of small cottages into larger homes on small lots. Kathy Williams indicated Mr. Almonte had left her a voice message. Chris Vincent noted that the bylaw already includes setbacks and building coverage requirements. Joanne Crowley requested to be kept up to date on further discussions with Mr. Almonte. Susan Brita inquired about the recent discussions regarding recreational marijuana. Joanne Crowley noted that the Community & Economic Development Committee (CEDC) was gathering data on the topic, with Jim Saben indicating that the CEDC may provide a recommendation to the Board of Selectmen.
  7. **Correspondence**: The attached correspondence was sent to the Planning Board via e-mail.
  8. **Staff Updates**: None
  9. **Upcoming Meetings**:
    - a. September 7, 2022: Continued Public Hearing for Def Subdivision/Special Permit
    - b. September 21, 2022
  10. **Adjournment: VOTE**: **On a motion by Susan Brita, seconded by Chris Vincent, the Planning Board voted unanimously (5-0) to adjourn at 7:25 PM.**

**ATTACHMENTS:**

- **August 17, 2022 Agenda**
- **STM Zoning Amendments**: August 16, 2022 Memo from the Town Planner
- **Draft Minutes**: August 3, 2022
- **Miscellaneous Correspondence**:
  - ZBA Agenda 8/11/22
  - ZBA Decisions 4962, 4965, 4966, 4967, & 4968
  - Conservation Commission Agenda for 8/18/22

**Approved on \_\_\_\_\_:**

**On a motion by \_\_\_\_\_, and seconded by \_\_\_\_\_, the Planning Board voted (x-x-x) to approve the meeting minutes of August 17, 2022.**