

Town of Yarmouth

MINUTES OF THE PLANNING BOARD MEETING OF
April 15, 2020

YARMOUTH TOWN CLERK
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The Yarmouth Planning Board held a Business Meeting at **5:30** p.m. on Wednesday **April 15, 2020** via a Virtual Meeting pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law in response to the COVID-19 pandemic.

Planning Board Present: Brad Goodwin, Tom Roche, Chris Vincent, Liz Hartsgrove, Lee Rowley, Joanne Crowley and Tom Baron.

Planning Board Absent: None

Staff Present: Kathy Williams, Town Planner; Michael White, Yarmouth Tree Warden; and Mark Grylls, Building Commissioner.

1. **Meeting Opening:** Chairman Tom Roche opened the virtual meeting at 5:40 PM and took a roll call to establish quorum with all Planning Board members present. Kathy Williams, Town Planner, served as the Moderator for the virtual meeting and read the attached statement regarding the reason for the virtual meeting and provided an overview on how remote participation works. All votes were taken by roll call and the meeting was livestreamed to the Town of Yarmouth YouTube Channel. The Chair then called for a motion to allow for Planning Board meetings to be held via remote participation.

VOTE: On a motion by Chris Vincent, and seconded by Lee Rowley, the Planning Board voted (7-0) to allow Planning Board meetings to be conducted by Remote Participation as long as Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law remains in effect with Brad Goodwin, Tom Roche, Chris Vincent, Liz Hartsgrove, Lee Rowley, Joanne Crowley and Tom Baron voting in favor.

2. **CONTINUATION - JOINT PUBLIC HEARING ON SCENIC ROAD APPLICATION & PUBLIC SHADE TREES:** Application submitted by Alice and Tom George, 17 Thacher Shore Road, Yarmouth Port, MA, to remove three (3) multi-stem juvenile black oaks of 12-inches in diameter at breast height located on the north side of the Thacher Shore Road right-of-way, across from 17 Thacher Shore Road. Thacher Shore Road is a Scenic Road.
 - a. **Presentation:** Alice George, Applicant, gave a brief overview of their request to remove the three trees with an emphasis on the removal of the larger center tree. Tom Roche asked for input from Michael White, Tree Warden, who agreed that removal of just one of the three trees would be best. He noted that the largest center tree is most likely to grow toward the utilities and into the road.
 - b. **Written Comments:** Kathy Williams read into the record the attached April 8, 2020 Memo from Kelly Grant, Conservation Administrator, which noted that removal of the trees would require Conservation Commission approval and that although the Commission was not in favor of removal of healthy trees, they generally agreed that they would support the removal of the tallest tree at the center of the vista and recommended limiting future requests.
 - c. **Planning Board Comments:** The Chair then opened the hearing to comments and questions from the Planning Board.
 - **Tom Baron:** Tom Baron inquired as to how common Juvenile Black Oaks were, how susceptible they were to storm damage and whether all three tree could grow into the overhead utilities/roadway. Michael White indicated that they are native and relatively common, that the trees are susceptible to falling over in large storm events, but less so

than pitch pines; and there is the potential the two other trees could encroach into the road over time.

- Lee Rowley: Lee Rowley inquired as to whether there was any value in planting low growing bushes. Michael White did not recommend replanting as the vegetation in the area is already dense.
- Tom Roche: Tom Roche agrees with removal of the larger center tree.
- Liz Hartsgrove: Liz Hartsgrove inquired about whether the Conservation Commission made a formal vote to limit future requests. Kathy Williams noted that she did not believe so, but that it may be difficult to restrict future requests as each request would need to be looked at on their own merits and there may be legitimate reasons in the future to remove additional trees.

d. Public Comments:

- Richard Gegenwarth: Richard Gegenwarth, Old Kings Highway (OKH) Chairman, noted that this topic was discussed at the OKH meeting and there were mixed opinions. Some members would encourage opening up the vista and cutting the trees, but others see these trees providing a scenic road canopy. Mr. Gegenwarth noted that cutting one down and leaving the other two sounded reasonable.

- e. Planning Board Vote: Prior to the vote taken below there was a general discussion on the Motion by the Planning Board members. Tom Baron questioned the longevity of these trees and thought removal of all three may be best in the long run, noting that the Tree Warden had indicated there are an abundance of these types of trees. After the discussion, the Board voted as follows:

VOTE: On a motion by Joanne Crowley, and seconded by Chris Vincent, the Planning Board voted (6-1) to APPROVE the request to remove the larger center multi-stem juvenile black oak tree of 12-inches in diameter at breast height, located on the north side of the Scenic Thacher Shore Road right-of-way (ROW), across from 17 Thacher Shore Road, Yarmouth Port, as removal of this larger center tree would promote public safety by avoiding anticipated future road and overhead utility encroachment and would not impact streetscape aesthetics due to the number of remaining trees. The request to remove the other two (2) multi-stem juvenile black oak tree of 12-inches in diameter at breast height, located on the north side of the Scenic Thacher Shore Road right-of-way (ROW), across from 17 Thacher Shore Road, Yarmouth Port, is DENIED as removal of these trees for the purpose of restoring vista views does not promote the preservation of natural resources, provide environmental value or promote public safety, with Brad Goodwin, Tom Roche, Chris Vincent, Liz Hartsgrove, Lee Rowley, and Joanne Crowley voting in favor, and Tom Baron voting against.

f. Close Public Hearing:

VOTE: On a motion by Lee Rowley, and seconded by Joanne Crowley, the Planning Board voted (7-0) to close the Public Hearing at 6:09 PM with Brad Goodwin, Tom Roche, Chris Vincent, Liz Hartsgrove, Lee Rowley, Joanne Crowley and Tom Baron voting in favor.

3. Village Center Overlay District (VCOD) Site Plan Review (SPR): Applicant: Wise Living Development LLC. Owners: Maclyn LLC, 834 Main Street Realty Trust, and Baker Frank LLC. South Yarmouth Wise Living Retirement Community project at 822 and 834 Route 28 and 30 Frank Baker Road, South Yarmouth, Assessor Map 33/Parcel 70.1, Assessor Map 41/Parcel 12, and Assessor Map 41/Parcel 11.1, Zoning Districts B2, HMOD1, ROAD and

VCOD VC2. Applicant is proposing a redevelopment under Section 414 – Village Centers Overlay District (VCOD) on three parcels totaling approximately 6.09 acres. The proposed project includes the redevelopment of the Cape Cod Irish Village hotel property (822 Route 28) from 128 hotel rooms to a 120 unit Wise Living Requirement Community for senior housing with common dining facility and outdoor pool, as well as a leased medical complex, exercise/rehab and wading pool facilities. The project includes upgrades to the building façade and parking areas. The existing commercial property at 834 Route 28 will retain its existing uses and be upgraded with some building modifications and parking lot improvements. Existing septic and drainage systems will be used. 30 Frank Baker Road will remain vacant in its natural state. Formal Site Plan Review for VCOD projects is done through the Planning Board at a duly posted public meeting.

- a. Recusal: Prior to the start of this Agenda Item, Planning Board Member Brad Goodwin recused himself due to a conflict.
- b. Presentation: Attorney Andrew Singer and Kieran Healy of BSC Group gave the attached PowerPoint presentation providing an overview of the project. Attorney Singer noted that the building as designed does not meet the modulation requirements of the Bylaw and relief will be required from the Zoning Board of Appeals, in addition to a Use Special Permit from the Planning Board.

The presentation emphasized the proposed architectural improvements to the two existing buildings as well as the various site improvements. The project is not a raze and replace, but a reuse of the existing buildings with upgrades. The building at 822 Route 28 will include a new port cochere in the front, upgrades to the residential entrances, modifications to the flat roof through the addition of gable ends with cupolas and intermittent doghouse style dormers on a new partial pitched roof, and inclusion of open sided upper level decks and lower level patios. The remaining flat portion of the roof will have solar panels. The building will also include a reduced sized indoor pool, addition of an exercise room, two elevators as well as the retention of the existing restaurant/bar/kitchen area to serve meals to the residents. The building at 834 Route 28 includes a gable porch over the two western side entrances, cupola and doghouse style dormers, and a cutout in the building at the eastern entrance. The front and rear handicap ramps and porches will remain.

Site improvements at 822 Route 28 including the addition of in-lot trees and landscape enhancements, reduction in overall parking and elimination of parking in the front, expansion of the western parking lot to provide a full 24' aisle with 18' long parking spaces, relocation of the dumpsters within an enclosure, crosswalk and sidewalk to Route 28, and internal vehicular and pedestrian connections between 822 and 834 Route 28. Site improvements at 834 Route 28 include paving a portion of the gravel parking, additional buffer trees, and raised sidewalk to improve pedestrian access from the rear parking lot to entrances. Existing drainage and septic will be utilized for both properties, as will the existing curb cuts. Traffic data provided showed the proposed development resulting in less traffic than the current uses. Exterior lighting is proposed without undue trespass of lighting off property, although a legible photometric plan will need to be provided.

- c. Staff Comments: Kathy Williams gave a brief overview of the April 8, 2020 supplemental planner report which commented on the additional materials submitted on April 7th and what issues remain to be addressed, including possible conditions for the Board's consideration. Ms. Williams also reviewed comments from the Police regarding security cameras and Route 28 crosswalk safety. The Applicant responded that cameras are being provided inside/outside of 822 Route 28 and significant pedestrian traffic across Route 28 is not anticipated. Ms. Williams noted that future discussions with MassDOT may be required should there be significant pedestrian traffic crossing Route 28 from this project.

d. Planning Board Comments/Questions:

- Chris Vincent: Mr. Vincent had no questions. He did note that he participated in the Design Review Committee (DRC) review of the project and thinks they did a good job accommodating what we are looking for in a VCOD project.
- Liz Hartsgrove: Ms. Hartsgrove inquired about the safety of the location chosen for the interconnection between the two properties with it being so close to Route 28, and whether a stop line/stop sign is proposed. Andrew singer noted that pedestrian traffic between the two properties was located further back from Route 28 and that the vehicular interconnection would allow for easy flow through between the properties for ambulances and drop-off/pick-ups. Kieran Healy noted that a stop sign and stop line could be added. Mr. Singer indicated that there was not a lot of vehicle usage anticipated from the residents (59 and older) as they are less mobile, with most of the traffic coming from employees, the medical office and visiting nurses. Ms. Hartsgrove noted that many people over 59 drive. Otherwise she noted the project looks good.
- Lee Rowley: Mr. Rowley inquired as to whether kitchen facilities will be located within each room, noting that there may be times, such as now, when residents should not congregate together in the dining room. Andrew Singer noted that each unit has a cooktop, microwave, refrigerator and a sink.

Mr. Rowley inquired about access for larger public safety vehicles. Kieran Healy noted that a test had been conducted by the Fire Department with the ladder truck showing access into 822 Route 28. Kathy Williams noted that the concern by the Fire Department was taking the left turn to the eastern side of the building and this may impact some parking spaces. Both the Fire Dept and the Applicant were satisfied with the proposed condition included in the Planner Report to address fire access. Mr. Rowley asked about lack of a second means of egress for the rear parking lot of 834 Route 28 for fire trucks. Kieran Healy noted that with the building being located in the front of the lot, the trucks would likely stay to the west of the building and not go into the rear parking lot.

Mr. Rowley inquired as to hydrant locations near the property. Mr. Healy noted there is a hydrant in the rear of the property and in front of the property along Route 28.

Mr. Rowley inquired about waste disposal and whether an adequate number of dumpsters were being provided. Mr. Healy noted trash will be taken out weekly by employees, not the residents and additional waste pickup can be scheduled if needed.

- Joanne Crowley: Ms. Crowley inquired as to the differences between the various types of units. Mr. Healy noted that the main difference was bedrooms vs studios and handicap accessible bathrooms for some units, but occupancy is limited to two in all units.

Ms. Crowley asked whether meals could be delivered to the units. Andrew Singer indicated they could and that weekly housekeeping is done to address the trash issue.

Ms. Crowley inquired as to the number of employees and whether it is different than the number employed today. Andrew Singer was not aware of the number of existing employees, but proposed employees are outlined in the Parking Table.

Ms. Crowley asked if any thought had been given to public transportation and a possible covered bus stop for employees and residents. Mr. Singer noted the ability for flow through traffic which could have the potential for pick-ups.

Ms. Crowley asked when and how the three parcels would be combined. Mr. Singer noted it was a simple 81X plan.

- Tom Baron: Mr. Baron noted he had similar comments regarding fire truck access to the east side of the building and it should be looked at more closely. He agreed with the addition of the sidewalk along the west side of 834 Route 28 for pedestrian safety. He inquired about the reasoning for requiring the sidewalk along the Route 28 frontage, whether there was designated parking for employees and visiting nurses or was it random, and would the pitched roofs cause a shadow effect over the proposed solar panels.

Mr. Healy noted that there will be some shadows on the solar but would be open during the primary solar period during the middle of the day, and only residential parking spaces will be designated. Kathy Williams noted that the sidewalk along Route 28 required by the VCOD bylaw was to accommodate future expansion of Route 28 which only has a 40' right-of-way in this area.

- Tom Roche: As the residents are 59 and over, Tom Roche inquired about any provisions for their finances. Mr. Singer noted that although there is no Affordable Housing required or being explicitly provided, the developer's price point is designed to be more affordable. Mr. Roche felt the architectural features proposed did a good job addressing the building mass understanding the difficulty and cost to do the modulations per the regulations for an existing building, versus new construction such as Yarmouth Commons and Maplewood. Mr. Roche inquired as to the width of the parking spaces being provided. Mr. Healy noted they were 18' long by 10' wide.

Mr. Roche noted the provisions for a bus shelter for the Yarmouth Gardens housing project. Mr. Singer indicated the Applicant's interest in public transportation but requested that a bus stop not be required. The Board had a general discussion on public transportation to the property with Chris Vincent noting that the regional bus goes into the Stop & Shop Plaza on Long Pond and doesn't stop at the street which may be possible for this site. Liz Hartsgrove noted that flexibility is important and there are different programs for providing transportation (uber/lift). Joanne Crowley encouraged the Applicant to coordinate with the regional transportation agencies and Tom Roche and Tom Baron agreed. Ultimately the Board decided to add into the conditions an item related to the Applicant coordinating with the regional transportation authorities to accommodate public transportation access to the property.

- e. Planning Board Vote: After the discussion noted above the Planning Board voted on the project as follows:

VOTE: On a motion by Joanne Crowley, and seconded by Tom Baron, the Planning Board voted (6-0) that the project at 822 & 834 Route 28 and 30 Frank Baker Road as presented at the Planning Board meeting of April 15, 2020 is in general compliance with the VCOD Design Standards, with the exception of the building modulation requirements outlined in Section 414.8 and the Architectural & Site Design Standards for which relief is being sought through the Zoning Board of Appeals, and subject to the following conditions, with Tom Roche, Chris Vincent, Liz Hartsgrove, Lee Rowley, Joanne Crowley, and Tom Baron voting in favor:

1. Applicant shall revise the Route 28 landscaped buffer west of the entrance of 822 Route 28 to include a more natural shaped 18" mounding with dispersed plantings rather than the linear berm shown; a Landscape Architect shall develop plans for planting beds around the building at 822 Route 28, especially along the Route 28 façade, to replace existing overgrown or limited plantings; and landscaped areas shall be irrigated.
2. Incorporate the Design Review Committee comments as follows:

- a. Add some type of porticos over the two entrances on the south end of the east side of the building at 822 Route 28 to add some modulation.
 - b. Prior to submitting a building permit, submit color schemes for 822 Route 28 to the Town Planner for review to ensure all building and roof colors are complimentary to the existing neutral color scheme. Provide different shades to enhance the variations in building massing. Refinish the brick along the Medical Office façade to better match the entire building color scheme.
3. All pavement around the front portion of the building at 822 Route 28 shall be replaced or overlaid. Deteriorated pavement in other locations to be replaced or overlaid.
 4. All proposed sidewalks to be concrete. The proposed sidewalk adjacent to the west side of 834 Route 28 to be raised concrete with curbing.
 5. The porte cochere height and site design shall ensure turning movements around both sides of the building at 822 Route 28 for fire and emergency vehicles as approved by the Fire Department.
 6. Lighting and photometric plan shall be submitted to the Building Department as part of the Building Permit application to adhere to Section 414.8.10.
 7. If additional modifications are subsequently made to the buildings, the applicant shall come back before the Design Review Committee for review and the Planning Board for an amendment to the VCOD SPR, as determined by the Building Commissioner.
 8. Provide a stop line and stop sign delineation along the vehicle connection between 822 & 834 Route 28.
 9. Applicant shall coordinate with regional transportation authorities to accommodate public transportation access to the property.
4. **VCOD 2020-1 Zoning Board of Appeal Variances:** Andrew Singer reviewed the five (5) items the Applicant will be seeking relief for from the Zoning Board of Appeals and was hoping to receive the support of the Planning Board. The relief involves the modulations to both the buildings at 822 Route 28 and 834 Route 28; elimination of four in-lot trees in the parking area of 822 Route 28 to avoid impacts with the septic system; allowing the retention of a second free-standing sign for the commercial building at 834 Route 28; and providing an 8' easement rather than constructing the 6' sidewalk along Route 28. Kathy Williams commented on the potential to relocate one of the tree islands and ask for relief from the spacing requirements, rather than eliminating altogether. Ms. Williams also discussed whether the Board was interested in other plantings in the islands to replace the trees. After limited discussion, the Board decided to review this request further at their May 6, 2020 meeting. Prior to the conclusion of this item, Joanne Crowley inquired as to whether this was an Opportunity Zone project and Andrew Singer noted that it was.
5. **Meeting Minutes:**
 - a. **March 4, 2020:** On a motion by Tom Baron, and seconded by Brad Goodwin, the Planning Board voted (5-0-2) to approve the meeting minutes of March 4, 2020 with Brad Goodwin, Tom Roche, Lee Rowley, Joanne Crowley and Tom Baron voting in favor, and Liz Hartsgrove and Chris Vincent abstaining.
6. **Board of Appeals Agenda & Decisions:** Attached ZBA Agenda was sent to Planning Board members via e-mail.
7. **Committee Updates from Board Members:**
 - a. **Community & Economic Development Committee (CEDC):** Joanne Crowley noted that CEDC met on April 9th and discussed resources and plans to help hotels and restaurants reopen post COVID 19.

8. **Board Member Items:** Brad Goodwin inquired as to the date for Annual Town Meeting. Kathy Williams noted that the ATM was extended to May 19th, but that the Board of Selectmen may have moved that to the end of June at their April 14th meeting. The recent legislation provides a methodology for funding municipal government should a new budget not be approved prior to July 1st.
9. **Correspondence:** Attachments noted below were sent to the Planning Board via e-mail.
10. **Staff Updates:** Kathy Williams noted that the Visioning process will need to be delayed, likely until September or October, to ensure it is safe for people to convene for the Workshops.
11. **Upcoming Meetings:**
 - a. May 6, 2020
 - b. May 20, 2020
12. **Adjournment: VOTE:** **On a motion by Tom Baron, seconded by Lee Rowley, the Planning Board voted unanimously (7-0) to adjourn at 7:45 PM.**

ATTACHMENTS:

- **April 15, 2020 Agenda**
- **Script - Explaining Remote Access Planning Board Meeting**
- **Scenic Road Permit Application:**
 - February 28, 2020 Memo from Kathy Williams, Town Planner
 - April 8, 2020 Memo from Kelly Grant, Conservation Administrator
 - April 15, 2020 e-mail from Michael White, Tree Warden
 - April 15, 2020 e-mail from Kathy Williams, Town Planner
 - Public Hearing Notice
 - February 25, 2020 Letter from Alice & Tom George requesting the Public Hearing be continued to April 15, 2020.
 - Scenic Roadway Permit Application with attachments
- **VCOD 2020-1 SPR:**
 - PowerPoint Presentation given by Applicant
 - March 13, 2020 Planner Memo with application materials
 - April 8, 2020 Planner Memo with supplemental materials
- **Draft Meeting Minutes:** March 4, 2020
- **Miscellaneous Correspondence:**
 - March 11, 2020 Planner Memo to Board of Selectmen on the CCRT to Drive-In Parcel Bicycle Feasibility Study completed by the Cape Cod Commission
 - March 16, 2020 Letter from Tom Baron regarding the March 11, 2020 Planner Memo and Feasibility Study
 - March 11, 2020 Planner Memo to Board of Selectmen regarding the Revised Fundraising/Special Event Sign Policy
 - ZBA Agenda for March 12, 2020
 - Conservation Commission Agendas for March 19, 2020, April 2, 2020 and April 16, 2020
 - Dennis Public Hearing Notice for Zoning Amendments March 16, 2020
 - Barnstable Planning Board Hearing Notice March 23, 2020

Approved on May 6, 2020:

On a motion by Liz Hartsgrove, and seconded by Brad Goodwin, the Planning Board voted (5-0) to approve the meeting minutes of April 15, 2020 with Brad Goodwin, Tom Roche, Liz Hartsgrove, Lee Rowley, and Tom Baron voting in favor.