

**MINUTES OF THE PLANNING BOARD MEETING OF
May 20, 2020**

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The Yarmouth Planning Board held a Business Meeting at **5:30** p.m. on Wednesday **May 20, 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: Tom Roche, Chris Vincent, Liz Hartsgrove, Lee Rowley, Joanne Crowley, and Tom Baron.

Planning Board Absent: Brad Goodwin (Mr. Goodwin continued his recusal for the South Yarmouth Living Retirement Community project due to a conflict and therefore did not attend the meeting)

Staff Present: Kathy Williams, Town Planner.

Guests: Attorney Andrew Singer; Kieran Healy, BSC Group; Jack Hynes; Chris Wise; Sandi Clark and Abbigail Santos.

1. **Meeting Opening:** Chairman Tom Roche opened the virtual meeting at 5:39 PM and took a roll call to establish quorum. 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.
2. **PUBLIC HEARING – PETITION #115 – South Yarmouth Wise Living Retirement Community: Applicant: Wise Living Development LLC, Owners: Maclyn LLC, 834 Main Street Realty Trust, and Baker Frank LLC, Project Location: 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. The Applicant seeks a Use Special Permit under Zoning Bylaw Section 202.5.P5 - Note 35, for Assisted Living Retirement Communities within the Village Centers Overlay District (VCOD) Village Center 2 (VC2).
 - a. **Hearing Opening and Public Notice:** Tom Roche opened the public hearing at 5:43 PM noting the attached public hearing notice was properly noticed in the Register and sent to interested parties.
 - b. **Presentation:** Attorney Andrew Singer gave an overview of the components of the project, emphasizing the P5 Assisted Living Retirement Community Use requiring a Special Permit from the Planning Board. Attorney Singer gave an overview of his attached Summary of Reasoning which outlined how the project met the Special Permit granting criteria of Section 103.2.2, along with the additional supporting criteria outlined in Section 414.3.3. Kieran Healy, BSC Group, went through the attached PowerPoint presentation of the site, landscape and architectural plans and highlighted changes made to adhere to the conditions of the VCOD 2020-1 SPR decision.
 - c. **Staff Comments:** Kathy Williams, Town Planner, briefly reviewed the attached May 14, 2020 staff memo, emphasizing the need for further investigation of the drainage system (recommended as a condition) and the need to address fire and truck access to the satisfaction of the Fire Department as noted in a condition of the VCOD SPR decision.
 - d. **Public Comments:** Abbigail Santos of 15 Frank Baker Road inquired as to whether any of the construction/expansion would impact the pathway to the conservation area at the end

of Frank Baker Road and whether the fence would be extended to impede access to 30 Frank Baker Road. Kieran Healy stated that the project would not impact the access to the conservation area, the fencing was not being extended to block access to 30 Frank Baker Road, and no access to the project is provided from Frank Baker Road.

e. **Planning Board Comments:**

- 1) Chris Vincent: Mr. Vincent had no further comments and felt they had done a great job making the building look nice.
- 2) Liz Hartsgrove: Ms. Hartsgrove noted the Long-Term Pollution & Operation and Maintenance Plan and inquired about fertilizer application so close to Swan Pond and our aquifer. She recommended the Board consider requiring some type of soil testing to ensure the fertilizer used on the site was safe and would protect our environmental resources.
- 3) Lee Rowley: Mr. Rowley inquired as to whether the units would be leased and if so for what duration. Attorney Singer noted these units would be rental units with annual leases.
- 4) Joanne Crowley: Ms. Crowley had no comments.
- 5) Tom Baron: Mr. Baron noted that the pond behind the project was a salt water pond and the site was not located within the aquifer protection overlay district. Mr. Baron inquired about the 20' easement in the rear of the property and whether that 8" watermain serviced the project or Frank Baker Road. Kieran Healy noted that the watermain services both plus the adjacent Seine Pond Condominiums. Mr. Baron asked whether the project was serviced from both the watermain in the easement and the watermain along Route 28. Mr. Healy noted that the drinking water was from the watermain in the rear, but that the sprinkler for the Restaurant was likely from Route 28.
- 6) Tom Roche: Mr. Roche felt it was an outstanding project that will help to redevelop Route 28.

- f. **Vote & Discussion:** After the following motion was made and seconded, the Planning Board discussed the issues raised by Ms. Hartsgrove regarding soil testing to determine the appropriate fertilizer application rate to prevent excess nitrogen from going into our waterways. Other Planning Board members also expressed concerns on this topic. Attorney Andrew Singer noted that the applicant agrees with the concerns and wants to be a good steward of our resources. Rather than a Special Permit condition, it was agreed to add into the Decision a Finding that the Applicant will make a commitment to investigate the use of environmentally sensitive fertilizers for the landscaped areas. Subsequent to this discussion, the Board voted as follows:

VOTE: On a motion by Tom Baron, and seconded by Lee Rowley, the Planning Board voted (6-0) to grant the P5 Use Special Permit for Assisted Living Retirement Communities for the South Yarmouth Wise Living Retirement Community at 822 & 834 Route 28 and 30 Frank Baker Road subject to the following conditions:

1. Applicant shall adhere to the conditions outlined in the Planning Board's VCOD 2020-1 Site Plan Review decision dated April 24, 2020, and
2. Applicant shall adhere to the March 3, 2020 Site Plan Review Team Comments from the Engineering Department regarding Stormwater/Drainage, including the submission to the satisfaction of the Engineering Department of drainage calculations verifying the adequacy of the capacity of all existing stormwater infrastructure to meet the needs of the site, inspection logs from the Owner's Engineer of existing drainage structures; documentation of cleaning of

drainage structures if needed; and providing a construction period erosion and sedimentation control plan.

- g. **Public Hearing Closed:** VOTE: On a motion by Tom Baron, and seconded by Chris Vincent, the Board voted (6-0) to close the public hearing at 6:38 PM with Tom Roche, Chris Vincent, Liz Hartsgrove, Lee Rowley, Joanne Crowley and Tom Baron voting in favor.
3. **Meeting Minutes:**
- a. **May 6, 2020:** On a motion by Liz Hartsgrove, and seconded by Lee Rowley, the Planning Board voted (4-0-2) to approve the meeting minutes of May 6, 2020 with Tom Roche, Liz Hartsgrove, Lee Rowley, and Tom Baron voting in favor, and Chris Vincent and Joanne Crowley abstaining.
4. **Board of Appeals Agenda & Decisions:** None - ZBA has not been meeting due to lack of applications.
5. **Committee Updates from Board Members:**
- a. **Affordable Housing Trust (AHT):** Tom Roche noted that the AHT met on May 19th with Commonwealth Community Developers who are redeveloping the Yarmouth Gardens into 40 units of affordable housing. They received an additional \$61,000 from the AHT to assist with the project as some lenders had pulled out due to COVID 19.
- b. **Community and Economic Development Committee (CEDC):** Joanne Crowley noted that CEDC has been discussing with the Town the possibility of a loan from the Tourism Revenue Preservation Funds (TRPF) to offset losses in receipts associated with COVID 19 for uses that satisfy the mission of the TRPF. Although there were few specifics at this time, the CEDC indicated they would consider it. Ms. Crowley also noted there were two letters of interest to use the former drive-in site as a drive-in this summer with a portable screen and that WIFI may be an issue. Mr. Baron noted that the proposed repeater along Route 28 in this area has not been installed at this time.
6. **Board Member Items:** None.
7. **Correspondence:** Attachments noted below were sent to the Planning Board via e-mail.
8. **Staff Updates:** Kathy Williams informed the Board that at this time the ATM is still scheduled for June 22, 2020 and the Town is looking at different venues and ways to conduct the meeting safely. Ms. Williams also briefly discussed the Governor's 4-phase re-opening plan presented on May 18th. To help facilitate businesses reopening, the Board of Selectmen sent a letter requesting legislative relief for alcohol service and other town/state regulations.
9. **Upcoming Meetings:**
- a. June 3, 2020 – ANR
- b. June 17, 2020
10. **Adjournment:** VOTE: On a motion by Joanne Crowley, seconded by Tom Baron, the Planning Board voted unanimously (6-0) to adjourn at 6:53 PM.

ATTACHMENTS:

- **May 20, 2020 Agenda**
- **Script - Explaining Remote Access Planning Board Meeting**
- **Petition #115 – Use Special Permit for South Yarmouth Wise Living Retirement Community:** May 14, 2020 Planner Memo with public hearing notice, VCOD 2020-1 SPR Vote, Summary of Reasoning From Attorney Andrew Singer, and Petition 115 application materials and plans including the PowerPoint presentation given by the applicant at the public hearing.

- **Draft Meeting Minutes:** May 6, 2020
- **Miscellaneous Correspondence:**
 - May 14, 2020 Letter to Zoning Board of Appeals from Kathy Williams, Town Planner, noting the Planning Board vote in support of the relief being requested for ZBA Petition 4846 - Wise Living Development project.
 - MassDOT Draft FY 2021 Capital Improvement Plan (CIP) and Draft FFY 2021-2025 State Transportation Improvement Program (STIP) Notification and Flyer.

Approved on June 3, 2020:

On a motion by Liz Hartsgrove, and seconded by Lee Rowley, the Planning Board voted (5-0-1) to approve the meeting minutes of May 20, 2020 with Tom Roche, Liz Hartsgrove, Lee Rowley, Joanne Crowley and Tom Baron voting in favor, and Brad Goodwin abstaining.