

TOWN OF YARMOUTH

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Planning
Division

Summary of Zoning Amendments for 2022 Annual Town Meeting Updated April 4, 2022

The following is a brief summary of the attached Zoning Articles on the Warrant for the 2022 Annual Town Meeting scheduled for April 26, 2022.

1. **Article #27 – Short-Term Rentals:** This Article would amend the zoning bylaw to allow for Short-Term Rentals (STRs) while incorporating general provisions to balance maintaining the residential character of existing neighborhoods, and ensuring the continued revenues to the Town from the short-term rental tax. Essentially, a STR includes renting of rooms, apartments or houses for less than 31 days, but does not include hotels, B&B or lodging houses. Yarmouth had 889 STRs registered with the state in 2021, compared with a total of 17,300 housing units in town. The STR tax brought in \$1,342,723 to the Town in Fiscal Year 21 (FY 21), with over \$1,163,390 collected for FY 22 through January 2022. STRs are a vital revenue stream for the Town to help fund our wastewater initiative to improve our estuaries and retain our quality of life.

The recent legal case of Styller vs Zoning Board of Appeals of Lynnfield in July 2021 brought attention to how STRs are, or are not, addressed in Zoning Bylaws. Although the Health Department requires annual registration, inspections and setting of occupancy loads for rental properties, our current Zoning Bylaw does not expressly regulate Short-Term Rentals. Although STRs may have historically been viewed as customary accessory uses, the recent case law brought into question the legality of STRs throughout Massachusetts. This Article would allow for STRs by-right in a simple timely manner to avoid problems with upcoming summer vacation rentals and the revenue they generate for wastewater. Some limited provisions have been included to retain the residential character of our neighborhoods by regulating trash removal, parking, duration of rental, and type of rentals.

Understanding the Town may wish to undertake a more detailed planning process related to Short-Term Rentals, a sunset clause has been added to the Article. Under this sunset clause, the STR provisions in this Article would expire on November 13, 2024, unless amended at a future Town Meeting.

2. **Article #28 – Seasonal Employee Housing at Motels/Hotels:** This Article was developed in collaboration with the Yarmouth Community Partnership, a subcommittee of the Yarmouth Chamber of Commerce, to help address the temporary housing needs of seasonal workers, mainly J1 student and H-2B visa workers needed to support our tourism economy. Currently, our Zoning Bylaw allows for motels/hotels to use up to 15% of their rooms to house their own seasonal employees (April 1st thru October 31st), along with a list of provisions they need to meet including having an on-site proctor, access to cooking facilities, and an annual permit issued by the Building Department. This Article would expand the pool of seasonal employees who can stay within the designated 15% of a hotel/motel rooms from just employees of the hotel/motel owner to employees from other Yarmouth businesses.
3. **Article #30 - CITIZEN PETITIONED ZONING ARTICLE – Rezoning 17 Berry Avenue:** This is a petitioned article brought forth by registered voters in the Town to amend the Zoning Map to rezone the parcel at 17 Berry Ave (Assessor Map 30.222) from R25 Residential, to B2 Business, HMOD1 Hotel/Motel Overlay District 1, and ROAD Revitalization Overlay Architectural District. The parcel is a vacant residential lot located adjacent to a small vacant commercial lot at the corner of Route 28 and Berry Avenue, and across Berry Avenue from other commercial development (the 99 Restaurant). The Planning Board had investigated rezoning this parcel as part of the 2021 fall Special Town Meeting (STM) as a way of promoting commercial development on one or both of these vacant parcels. However, after the Public Hearing, the Planning Board decided to not move forward with rezoning of this parcel and it was not placed on the 2021 Special Town Meeting (STM) Warrant. Subsequently, a CITIZEN PETITION has been brought forth to place this zoning map amendment on the 2022 Annual Town Meeting Warrant. The Planning Board voted (4-1) to Not Recommend this Article.

ARTICLE #27 Zoning – Short-Term Rentals: To see if the Town will vote to amend various sections of the Zoning Bylaw to modify certain provisions related to Short-Term Rentals, 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 adding a new row entitled “***A13 Short-Term Rentals***⁵⁴”, as shown:

202.5 Use Regulation Table	Res.	RS-40	B1 ²¹	B2 ²¹	B3 ²¹	RMDOD ⁴⁴	MU	APD	AED	MOD	HMOD1	HMOD2	VC1	VC2	VC3	VC4
A. RESIDENTIAL																
<i>A13 Short-Term Rentals</i> ⁵⁴	<i>yes</i>	<i>yes</i>	<i>yes</i>	<i>yes</i>	<i>no</i>	<i>no</i>	<i>yes</i>	<i>yes</i>	<i>no</i>	<i>yes</i>	<i>no</i>	<i>no</i>	<i>no</i>	<i>no</i>	<i>no</i>	<i>no</i>

2. Amend Section 202.5 – Use Regulation Table - Footnotes, by adding the following new Footnote 54 as shown:

54. Short-Term Rentals may be allowed by-right if they meet the criteria outlined in Section 418.

3. Amend the Zoning Bylaw by adding the following new Section 418 as shown:

418 SHORT-TERM RENTALS

418.1 Purpose: To provide for the orderly operation of short-term rentals for residential properties that balance private, neighborhood and public interests, and will:

- 1. Protect and maintain the residential character of existing neighborhoods.***
- 2. Protect public health and safety.***
- 3. Enable residents to better afford to live here, maintain their properties and contribute to the community.***
- 4. Ensure the continued revenues to the Town from the short-term rental excise tax.***

418.2 Definitions:

SHORT-TERM RENTALS (STR) - defined as owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, boarding or lodging house, or guesthouse, inn or bed and breakfast establishment, where at least one room or unit is rented to an occupant or occupants for 1-31 consecutive days at a time; and all accommodations are reserved in advance. All STRs shall be transient in nature and not rented to the same occupant month to month.

418.3 Ineligible Units: The following are not eligible to be rented as STRs.

- 1. Dwellings designated as income restricted or are subject to affordability covenants.***

2. *Family-related or affordable accessory apartments.*
3. *Dwellings subject to any outstanding building, sanitary, zoning or fire code violations.*

418.4 Registration & Inspections:

1. *All short-term rentals shall be registered annually through the Yarmouth Health Department in accordance with General Bylaw Chapter 108 – Occupancy of Buildings, and shall adhere to all their health and safety requirements, including occupancy limitations based on inspections.*
2. *Rental certificates shall be displayed on the property in a prominent location and shall include 24-hour local contact information.*
3. *The Town reserves the right to post rental locations and contact information on the Town Website per MGL Ch. 64G, Section 14.*

418.5 General Provisions:

1. **Trash Removal:** *All household trash shall be removed from the premises immediately after occupancy is concluded, and at a minimum once per week.*
2. **Parking:** *Adequate on-site parking shall be provided, with a minimum of one space/bedroom. There shall be no parking on lawns, no overnight street parking, and no street parking that impedes traffic or traffic safety at any time.*
3. **Duration:** *Renting for less than two (2) consecutive nights is prohibited.*
4. **Type of Rentals:**
 - a. *STRs are for Residential uses only. No large scale events including but not limited to weddings, corporate events, class/family reunions, and photo shoots.*
 - b. *No events that include tents or amplified music.*
 - c. *Shall not adversely affect the residential character of the neighborhood nor interfere with any reasonable person’s enjoyment of their residence.*
5. **Pets:** *Adherence to any and all state and local regulations regarding pets.*
6. *Use of RVs, campers or sleeping tents is prohibited.*
7. *Short Term Rentals shall meet all local and state regulations, including but not limited to building and fire codes, health codes, water supply and wastewater disposal.*

418.6 Sunset Clause: *Section 418 – allowing Short Term Rentals, along with corresponding provisions of A13 of Section 202.5 – Use Regulation Table, shall expire, and its terms shall no longer remain in effect as of 11:59 PM, November 13, 2024. During this time period, the Town will undertake a more detailed planning process related to Short-Term Rentals. Any STR use that complies with the terms of this bylaw shall be permitted to continue up to and including the sunset of this bylaw, at which time it shall lapse.*

Explanation:

This Article would amend the zoning bylaw to allow for short-term rentals (STRs) while incorporating general provisions to balance maintaining the residential character of existing neighborhoods, and ensuring the continued revenues to the Town from the short-term rental tax. The STR tax brought in \$1,342,723 to the Town in Fiscal Year 21 (FY 21), with over \$1,163,390 collected for FY 22 through January 2022. STRs are a vital revenue stream for the Town to help fund our wastewater initiative to improve our estuaries and retain our quality of life.

The recent legal case of *Styller vs Zoning Board of Appeals of Lynnfield* in July 2021 brought attention to how STRs are, or are not, addressed in Zoning Bylaws. Although the Health Department requires annual registration, inspections and setting of occupancy loads for rental properties, our current Zoning Bylaw does not expressly regulate short term rentals. Although STRs may have historically been viewed as customary accessory uses, the recent case law brought into question the legality of STRs throughout Massachusetts. This Article would allow for STRs by-right in a simple timely manner to avoid problems with upcoming summer vacation rentals and the revenue they generate for wastewater. Some limited provisions have been included to retain the residential character of our neighborhoods by regulating trash removal, parking, duration of rental, and type of rentals.

Understanding the Town may wish to undertake a more detailed planning process related to Short-Term Rentals, a sunset clause has been added to the Article. Under this sunset clause, the STR provisions in this Article would expire on November 13, 2024, unless amended at a future Town Meeting.

Board of Selectmen Recommends (4-0-1)
Planning Board Recommends (5-0)

(Yarmouth Planning Board)

2/3 Vote Required

ARTICLE #28 Zoning – Seasonal Employee Housing at Motels/Hotels: To see if the Town will vote to amend various sections of the Zoning Bylaw to modify certain provisions related to Seasonal Employee Housing at Motels/Hotels, with new language shown in bold italics, as follows, or take any other action relative thereto:

1. Amend the Section 404.5.1 - Purpose, by deleting the text “*at motels/hotels*” at the end of the sentence and adding new text as shown:

404.5.1 Purpose: The purpose of this bylaw is to provide standards to ensure safe and adequate housing *at motels/hotels* for temporary seasonal employees *of Yarmouth businesses*.

2. Amend the Section 404.5.3 – Operational Standards for Seasonal Employee Housing at Motels/Hotels, by adding the following new Paragraph 1 as shown, and renumbering the remaining paragraphs:

1. A Seasonal Employee is considered to be an employee that is employed in Yarmouth for no more than seven (7) months between April 1st and October 31st annually.

3. Amend the Section 404.5.3 – Operational Standards for Seasonal Employee Housing at Motels/Hotels, by adding new text as shown to renumbered Paragraph 3:

*3. Seasonal employees shall be housed in motel/hotel rooms only. Seasonal employees may not be housed in camp sites, tents, RVs, mobile homes or campers located on the motel/hotel property **or timeshare units**.*

4. Amend the Section 404.5.3 – Operational Standards for Seasonal Employee Housing at Motels/Hotels, by deleting renumbered Paragraph 4 in its entirety and replacing with new text as shown:

4. Seasonal employee housing shall meet all local and state regulations, including but not limited to building and fire codes, health codes, water supply and wastewater disposal.

5. Amend the Section 404.5.3 – Operational Standards for Seasonal Employee Housing at Motels/Hotels, by deleting the text “*employer*” in the first sentence of renumbered Paragraph 7 and adding new text as shown:

*7. The **property owner or manager** shall designate an on-site proctor for each property utilized as employee housing. The on-site proctor shall ensure that all seasonal employees are apprised of the rules and code of behavior prior to occupancy. The name and contact information for the on-site proctor shall be submitted to the Yarmouth Police Department **and Building Commissioner**.*

6. Amend the Section 404.5.3 – Operational Standards for Seasonal Employee Housing at Motels/Hotels, by adding new text as shown to renumbered Paragraph 9:
 9. No more than 15% of any hotel or motel rooms at a single parcel may be used for employee housing (*fractions shall be rounded to the nearest whole number*). Each room used for employee housing shall be identified on a locus map of the site and submitted to the Building Commissioner, Board of Health and Yarmouth Police Department.
7. Amend the Section 404.5.3 – Operational Standards for Seasonal Employee Housing at Motels/Hotels, by deleting the text “, and” in the first sentence of renumbered Paragraph 11 and adding new text as shown:
 11. The property owner *or manager* shall keep records of all employees utilizing employee housing, including name, permanent address, length of stay, *and place(s) of employment with contact information*. All documentation to be provided upon request.
8. Amend Section 500 – Definitions, by deleting the definition for SEASONAL EMPLOYEE HOUSING at Motels/Hotels in its entirety and replacing with new text as shown:

SEASONAL EMPLOYEE HOUSING at Motels/Hotels – A currently licensed motel or hotel property, a portion of which is utilized to provide temporary seasonal housing for employees or staff, 18 years or older, who are seasonally employed by a business located within the borders of Yarmouth for more than 24 hours per week. All Seasonal Employee Housing at Motels/Hotels shall be conducted in accordance with the definitions, requirements and provisions of Section 404.5 – Seasonal Employee Housing at Motels/Hotels.

Explanation:

This Article was developed in collaboration with the Yarmouth Community Partnership, a subcommittee of the Yarmouth Chamber of Commerce, to help address the temporary housing needs of seasonal workers, mainly J1 student and H-2B visa workers needed to support our tourism economy. Currently, our Zoning Bylaw allows for motels/hotels to use up to 15% of their rooms to house their own seasonal employees (April 1st thru October 31st), along with a list of provisions they need to meet including having an on-site proctor, access to cooking facilities, and an annual permit issued by the Building Department. This Article would expand the pool of seasonal employees who can stay within the designated 15% of a hotel/motel rooms from just employees of the hotel/motel owner to employees from other Yarmouth businesses.

Board of Selectmen Recommends (5-0)
Planning Board Recommends (4-0-1)

(Yarmouth Planning Board)

2/3 Vote Required

POTENTIAL EDITS RELATED TO SEASONAL EMPLOYEES AT MOTELS/HOTELS

404.5 Seasonal Employee Housing at Motels/Hotels

404.5.1 Purpose: The purpose of this bylaw is to provide standards to ensure safe and adequate housing at motels/hotels for temporary seasonal employees of Yarmouth businesses ~~at motels/hotels~~.

404.5.2 Applicability: The Building Commissioner may approve, through annual application and permit, Seasonal Employee Housing units at currently licensed motels/hotels in accordance with the provisions outlined herein. If an Applicant cannot meet all the provisions outlined herein as determined by the Building Commissioner, a Special Permit from the Zoning Board of Appeals is required.

404.5.3 Operational Standards for Seasonal Employee Housing at Motel/Hotels: Accommodations for Seasonal Employee Housing at Motels/Hotels shall have the following features:

1. A Seasonal Employee is considered to be an employee that is employed in Yarmouth for no more than seven (7) months between April 1st and October 31st annually.

~~1.2.~~ Seasonal employee housing shall be for no more than seven months between April 1st and October 31st annually.

~~2.3.~~ Seasonal employees shall be housed in motel/hotel rooms only. Seasonal employees may not be housed in camp sites, tents, RVs, mobile homes or campers located on the motel/hotel property or timeshare units.

~~3.4.~~ Seasonal employee housing shall meet all local and state regulations, including but not limited to building and fire codes, health codes ~~the Board of Health and State of Massachusetts regulations regarding building and fire codes, health codes~~, water supply and wastewater disposal.

~~4.5.~~ Maximum occupancy rate of each unit to be determined per the Health Codes.

~~5.6.~~ Seasonal Employee housing shall be used solely by employees and shall not include family members of employees, or other non-employees.

~~6.7.~~ The ~~employer~~ property owner or manager shall designate an on-site proctor for each property utilized as employee housing. The on-site proctor shall ensure that all seasonal employees are apprised of the rules and code of behavior prior to occupancy. The name and contact information for the on-site proctor shall be submitted to the Yarmouth Police Department and Building Commissioner.

~~7.8.~~ All employees shall have access to cooking facilities, which shall include at a minimum a microwave, sink, cooktop and refrigerator /freezer.

~~8.9.~~ No more than 15% of any hotel or motel rooms at a single parcel may be used for employee housing (fractions shall be rounded to the nearest whole number). Each room used for employee housing shall be identified on a locus map of the site and submitted to the Building Commissioner, Board of Health and Yarmouth Police Department.

~~9.10.~~ All employees must be able to demonstrate that they maintain a principal place of residence elsewhere.

~~10.11.~~ The property owner or manager shall keep records of all employees utilizing

employee housing, including name, permanent address, ~~and~~ length of stay, and place(s) of employment with contact information. All documentation to be provided upon request.

~~11.12.~~ The permit issued by the Building Commissioner shall be valid for one year only.

DEFINITIONS:

SEASONAL EMPLOYEE HOUSING at Motels/Hotels – A currently licensed motel or hotel property ~~owned by an employer, a portion of~~ which is utilized to provide temporary seasonal housing for ~~his or her~~ employees or staff, 18 years or older, who are principally seasonally- employed by a business located within the borders of Yarmouth for more than 24 hours per week. All Seasonal Employee Housing at Motels/Hotels shall be conducted in accordance with the definitions, requirements and provisions of Section 404.5 – Seasonal Employee Housing at Motels/Hotels. ~~or employees or staff of tenants of the property owner. The employer shall designate an on-site proctor for each property so utilized. Seasonal employee housing shall be for no more than seven months between April 1st and October 31st annually.~~

ARTICLE #30: By CITIZEN PETITION Zoning Map Amendment for 17 Berry Avenue:

To see if the Town will vote to amend the Zoning Map for a certain parcel as follows, or take any other action relative thereto:

1. Amend the Zoning Map, by rezoning the following parcel from R25 Residential, to B2 Business, HMOD1 Hotel/Motel Overlay District 1, and ROAD Revitalization Overlay Architectural District: Map 30, Parcel 222

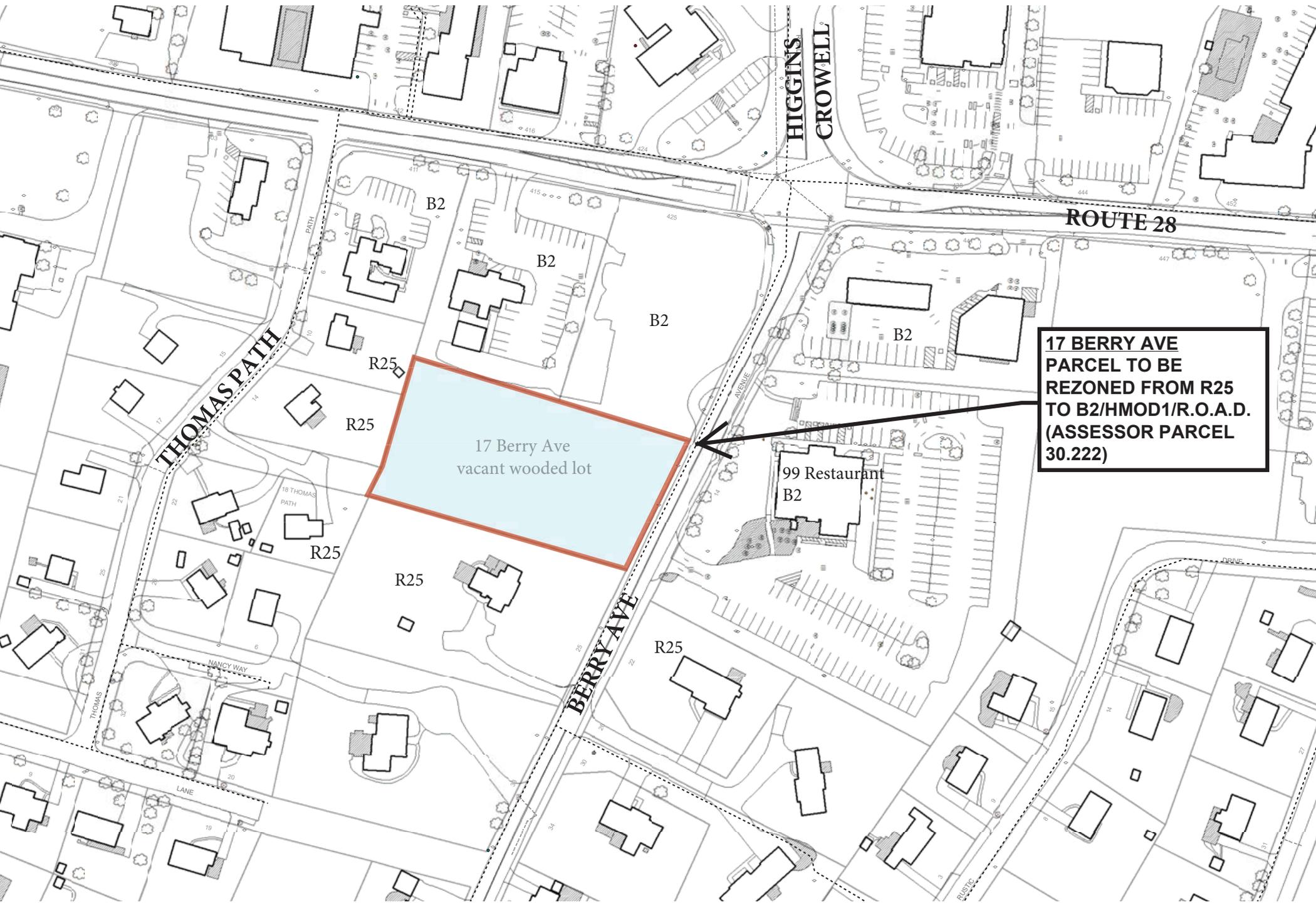
2/3 Vote Required

Submitted by Petition

Board of Selectmen Does Not Recommend (5-0)

Planning Board Does Not Recommend (4-1)

(Petitioner)



**17 BERRY AVE
PARCEL TO BE
REZONED FROM R25
TO B2/HMOD1/R.O.A.D.
(ASSESSOR PARCEL
30.222)**

17 Berry Ave
vacant wooded lot

99 Restaurant
B2

THOMAS PATH

BERRY AVE

ROUTE 28

HIGGINS
CROWELL

R25

R25

R25

B2

B2

B2

B2

R25

PATH

18 THOMAS
PATH

LANE

NANCY WAY

AVENUE

DRIVE

RUSTIC

416

424

415

425

411

444

447

462

THOMAS

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