

**Town of Yarmouth**  
**MINUTES OF THE PLANNING BOARD MEETING OF**  
**February 15, 2023**

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The Yarmouth Planning Board held a Hybrid in-person/remote access Business Meeting at **5:30** p.m. on Wednesday **February 15, 2023** in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

**Planning Board Present:** Susan Brita, Jim Saben, Joanne Crowley, Will Rubenstein, Brad Goodwin, and Ken Smith

**Planning Board Absent:** Chris Vincent

**Staff Present:** Kathy Williams, Town Planner

**Guests:** See attached sign-in sheet and list of remote participants

1. **Meeting Opening:** Chair Joanne Crowley opened the hybrid meeting at 5:31. Planning Board members were all in-person. All votes were roll call votes.
2. **Seasonal Employee Housing:** Discussion and possible support letter regarding the Parkers River Resort proposed Zoning Board of Appeals (ZBA) Petition for a second year of 100% seasonal employee housing at the Parkers River Resort at 759 Route 28.

Joanne Crowley noted that the Parker River Resort will be going before the ZBA to seek a second season of 100% seasonal employee housing. Brad Goodwin noted that as part of the public meeting last fall regarding motels used for 2022 seasonal employee housing, input was sought from police, fire, building and other departments and this property passed with flying colors. To an inquiry as to whether the Planning Board provides support letters to the ZBA, Brad Goodwin noted that the Planning Board has provided letters to the ZBA in support and opposition to projects in the past.

The Planning Board reviewed the attached draft memo and agreed through consensus to send the memo to the ZBA with the following modifications: memo to be from the entire Planning Board, identify the town staff that met with the Chamber, note that EOS Hospitality is the Red Jacket Resort, and eliminate the formal recommendation but retain the reference to the Planning Board's support of the petitioner's application.

3. **Accessory Apartment Bylaw Amendments:** Continued discussion on possible zoning amendments related to Accessory Dwelling Units (ADUs)/Accessory Apartments.

Joanne Crowley began the discussion gauging whether the Board felt the amendments would be ready for Annual Town Meeting (ATM). Kathy Williams noted that there are two items on the ATM agenda that are a priority for the town and have been worked on for decades, municipal wastewater and development of the former drive-in property, and may not want to deflect from these important long-term projects by bringing forth the accessory apartment amendments at the ATM. She also noted that the fall special town meeting is typically used for larger zoning initiative with the spring only being used for smaller or time sensitive amendments. After an initial discussion, the Board agreed to discuss this again at the end of the meeting to see how much progress and consensus can be reached this evening.

Kathy Williams reviewed the attached Draft #5, dated February 9, 2023 which incorporated edits or potential language as directed by the Board at the February 1<sup>st</sup> meeting. The Board had a robust discussion on many topics including: preventing parking in green space in front of the principal dwelling; setting minimum lot sizes as it relates to maximum unit size; setting lot sizes

at it relates to 1 or 2-bedroom accessory apartments; special permit versus by-right, noting the abutter notification process for special permits and that by-right refers to the use and still needs to meet the zoning bylaw and all other state and local codes/regulations; reviewed the three by-right options; provisions for allowing home offices and home occupations in accordance with Section 416; setting an annual date for affidavits; reviewed conversion language for existing family-related (including expanded definition) and affordable accessory apartments; and the transfer upon sale options for new accessory apartments and existing family related/affordable apartments. The Board also reviewed two GIS maps showing existing lots of different sizes.

**Public Comments:**

- Angela Carbone: Ms. Carbone questioned allowing accessory apartments on lots as small as 10,000 sf, questioned if some abutter notification could be provided for by-right, noted that most zoning is in the fall, and asked about how the Town would know when a family related apartment turns into a rental unit. Kathy Williams indicated this is something that would get caught during inspections done every 2 years by the Building Department and/or the affidavits.
- Christine Greeley: Ms. Greeley indicated anything by-right is a significant issue, noted the lack of compliance in her neighborhood, felt 800 sf was an adequate maximum size, noted the significant wastewater issues with septic systems, importance of setting locations for allowable parking, and noted the maps were not catching all the lots in her neighborhood.
- Dick Neitz: Mr. Neitz noted that two family homes require twice the minimum lot size. He also stated that special permits should be required, referencing his time on the ZBA where family-related accessory apartments are regularly approved by the board and allow for abutters to provide valuable input on issues on a particular property or neighborhood.
- Vida Morris: Ms. Morris felt things were moving in the right direction but should all be by special permit.
- Joshua Trott: Mr. Trott stated that he felt there should be no minimum lot sizes or special permit requirements as long as they meet all the other codes.
- Karen Ingemie: Ms. Ingemie commented that she would like abutter notification, concurred with no parking in green spaces, and asked about trailers as accessory apartments. Kathy Williams stated that trailers cannot be used as accessory apartments and trailers cannot be lived in.
- Christina Bologna: Ms. Bologna agreed with Mr. Trott about by-right and no minimum lots sizes as long as abiding by all the other codes. She also noted that not all property owners will want an accessory apartment, a significant number of apartments is unlikely, referenced the large number of commuters over the bridge, likes renting and is not interested in buying a home, and accessory apartments are one of a variety of solutions to rental housing needs.
- Jessica Terry: Ms. Terry echoed Ms. Bologna comments noting that accessory apartments are the new normal and the amendments should have minimal restrictions to support the workforce, and that we can protect the neighborhoods while supporting our neighbors.
- Rachel Youngling: Ms. Youngling appreciated the board's thorough approach and sees the need for additional housing, but noted the high densities and existing abuses in her neighborhood and that she does not want to have to police her neighbors. She felt special permits are valuable and offer the opportunity for open discussions to address historic issues.
- Chris George: Mr. George stated that he was in favor of streamlining the process.
- Tom Nickinello: Mr. Nickinello noted the citizen's petition in the fall of 2022 which caused some great concerns and the board's efforts to develop a united amendment. He further noted that special permits and by-right are part of our zoning process and it does not create two tiers.

- Vida Morris: Ms. Morris inquired as to whether an addition would require a special permit. Joanne Crowley noted that it would depend upon the particular property.
- Angela Carbone: Ms. Carbone indicated she felt accessory apartments would be popular as they are elsewhere. She questioned Mr. Saben's figure that only 10% of the accessory apartments would be by-right. Mr. Saben indicated he meant 10% of the accessory apartments constructed, not 10% of all residential housing units (so not 1 in every 10 houses), with maybe 20 accessory units/year. Mr. Goodwin emphasizes that as drafted now, accessory apartments would have market rate rents.

**Written Comments:** The Planning Board received the attached 21 written comment (most forwarded from the Board of Selectmen). The vast majority of the comments were related to requiring all special permits (no by-right options); need to look more closely at provisions including parking, water quality impacts, stormwater, staffing/enforcement and minimum lot size; need for more public input, discussion and analysis; and request to defer the proposed amendments to the fall Special Town Meeting (STM).

**Discussion:** Ultimately, the consensus of the majority of the Board was to:

- Amend the parking section to make it clearer that there shall be no parking in green spaces and no expansion of parking into green spaces when in front of the principal dwelling.
- Set minimum lot size at 10,000 square feet (sf) for studio/1-bedroom accessory apartments and a minimum lot size of 15,000 sf for 2-bedroom apartments.
- Set maximum unit size at 800 sf for studio/1-bedroom accessory apartments and 900 sf for 2-bedroom apartments, while retaining the 50% of habitable floor area limitation.
- Develop Maps that show the lot sizes less than 10,000 sf, 10,000-14,999 sf for studio/1-bedroom accessory apartments, and 15,000 and over for two-bedroom accessory apartments, as well as including the number of residential lots in each category.
- Retain the special permit requirements, except for the three by-right options as currently written.
- Require affidavits annually by January 31<sup>st</sup>.
- Leave the Transfer Upon Sale language as is for now.
- Obtain input from Town Counsel on the draft and how to address legal documents; and obtain input from Mary Waygan, Housing Administrator, related to existing affordable accessory apartments.

During the discussions, one board member noted that they would like all accessory apartments to be by Special Permit, felt that the minimum lot size should be 15,000 sf, did not want the accessory apartment to transfer upon the sale of the property, was not in support of allowing home office/home occupations within the accessory apartment (although okay for within the principal dwelling unit), and wanted to defer the amendment to the fall STM to have more public dialogue.

**Schedule:** The Board further discussed moving forward with the amendments for 2023 ATM. The majority of the Board wanted to continue to move forward at this time and agreed to an additional Planning Board meeting on February 22<sup>nd</sup> at 5:30 to continue the discussions and review a new draft which incorporates input from this evening and hopefully input from Town Counsel. Kathy Williams noted that to have the public hearing on March 15<sup>th</sup>, the notice to the paper describing the proposed amendments would need to be submitted by February 23<sup>rd</sup>.

#### 4. **Meeting Minutes:**

- a. January 18, 2023: On a motion by Susan Brita, and seconded by Will Rubenstein, the Planning Board voted (5-0-1) to approve the meeting minutes of January 18, 2023, with

Jim Saben, Susan Brita, Joanne Crowley, Brad Goodwin, and Will Rubenstein voting in favor, and Ken Smith abstaining.

- b. February 1, 2023: On a motion by Jim Saben, and seconded by Will Rubenstein, the Planning Board voted (5-0-1) to approve the meeting minutes of February 1, 2023, as amended to correct the Planning Board attendees, with Jim Saben, Susan Brita, Joanne Crowley, Ken Smith, and Will Rubenstein voting in favor, and Brad Goodwin abstaining.
5. **Board of Appeals Agenda & Decisions**: The attached ZBA Agenda and Decisions were sent to the Planning Board via e-mail.
  6. **Committee Updates from Board Members**:
    - a. **Open Space & Recreation Plan (OSRP) Ad-Hoc Committee**: Will Rubenstein noted the Ad-Hoc Committee held an Open House on February 8<sup>th</sup> at 6PM in the Hearing Room and via remote access. Kathy Williams also noted that there is an OSRP Survey out now and is available on the Town website under News Items.
    - b. **Community Housing Committee (CHC)**: Brad Goodwin indicated there is an affordable home available in the German Hill area and additional information is available on the Town Website.
  7. **Board Member Items**: None.
  8. **Correspondence**: The attached correspondence was sent to the Planning Board via e-mail.
  9. **Staff Updates**: None.
  10. **Upcoming Meetings**:
    - a. February 22, 2023 – additional meeting
    - b. March 1, 2023
  11. **Adjournment**: VOTE: On a motion by Jim Saben, seconded by Will Rubenstein, the Planning Board voted unanimously (6-0) to adjourn at 8:45 PM.

#### **ATTACHMENTS:**

- **February 15, 2023 Agenda**
- **Sign in Sheets and List of Remote Participants**
- **Accessory Dwelling Units (ADUs)**: Draft #5 Section 407 – Accessory Apartments, dated February 9, 2023; 2/9/23 e-mail from Susan Brita regarding parking; Map 1 and Map 2 showing various lot sizes; Table of ZBA Special Permits issued for Accessory Apartments; and written public comments.
- **Seasonal Employee Housing**: Draft Memo to ZBA regarding Parkers River Resort Petition
- **Draft Minutes**: January 18, 2023 and February 1, 2023
- **Miscellaneous Correspondence**:
  - Conservation Commission Agenda for 2/16/23
  - ZBA Agenda 2/9/23
  - ZBA Decisions 4993, 4994 & 5000
  - Cape Cod Commission Meeting Agenda for 2/16/23

#### **Approved on February 22, 2023:**

On a motion by Brad Goodwin, and seconded by Will Rubenstein, the Planning Board voted (6-0-1) to approve the meeting minutes of February 15, 2023, as amended, with Jim Saben, Susan Brita, Joanne Crowley, Brad Goodwin, Ken Smith and Will Rubenstein voting in favor, and Chris Vincent abstaining.