

Town of Yarmouth

**MINUTES OF THE PLANNING BOARD MEETING OF
February 22, 2023**

The Yarmouth Planning Board held a Hybrid in-person/remote access Business Meeting at **5:30** p.m. on Wednesday **February 22, 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, Chris Vincent, and Ken Smith

Planning Board Absent: None

Staff Present: Kathy Williams, Town Planner

Guests: See attached sign-in sheet and 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. **Accessory Apartment Bylaw Amendments:** Continued discussion on possible zoning amendments related to Accessory Dwelling Units (ADUs)/Accessory Apartments.

Joanne Crowley noted the undated attached Draft #8 with input from Town Counsel, although there are still some outstanding legal issues. She also noted the attached supplemental information on existing Affordable Accessory Apartments and information on enforcement.

Kathy Williams reviewed the attached Draft #8 emphasizing Town Counsel's opinion that we cannot take away someone's right to pursue a Variance, and that Town Counsel was looking at supplemental information provided by Staff on existing Family-Related and Affordable Accessory Apartment prior to offering suggestions on language for Transfers Upon Sale. The Planning Board discussed the 3 active affordable apartments, none of which have a Regulatory Agreement, and the approximately 52 active family related apartments. Kathy Williams also briefly reviewed the attached Memo from the Building Commission on Enforcement noting the 278 complaints received in 2022 related to Inspectional Services and the number that are resolved, or in process. The Board discussed developing a revised map that shows single family residential lots less than 10,000 square feet (sf) and those otherwise ineligible; lots 10,000 sf-14,999 sf that would be eligible for studio/1-bedroom accessory apartments; and lots 15,000 sf and greater which would be eligible for a 2-bedroom accessory apartment. Kathy Williams indicated she needs to meet with the Assessing Dept and GIS to be sure we are getting the most accurate data. There were some discrepancies on the previous maps.

Written Comments: Kathy Williams indicated that the Board had received 12 recent written comments. In brief, eleven of those comments were requesting to postpone the zoning amendments to the fall, wanted more public engagement/information, wanted all accessory apartments to be via special permit, noted some impacts related to density, parking and quality of life, and one comment noted the need for a master plan first. One written comment was in support of accessory apartments by-right.

The Board discussed the timetable to have the amendments on the 2023 Annual Town Meeting. The Board would need to decide at this meeting to move forward to allow for advertising of the required Public Hearing for March 15th. Would also need such things as the mapping corrected, frequently asked questions, and wide publicity to be sure to reach the entire community. The Board discussed potentially delaying the amendments until the fall with some board members

feeling there was additional input needed from Town Counsel, need to modify the mapping and more public engagement/education to put forward the best product. Whereas others felt enough time, discussion and thought had gone into the crafting of the amendments and they wanted to get the amendments to the voters.

Prior to voting on the following motion, the Board discussed that the delay would not be extended beyond the fall special town meeting, that the delay will provide for more public engagement and the public will need to education themselves on the issues and ask questions, need to map out a calendar for public engagement with a communication plan, and inclusion of the Community Housing Committee.

On a motion by Susan Brita, and seconded by Will Rubenstein, the Planning Board voted (6-1) to defer the Accessory Apartment zoning amendments to the 2023 fall special town meeting to allow for appropriate and necessary review by town counsel and to provide more time for additional focused and comprehensive public engagement, with Susan Brita, Joanne Crowley, Brad Goodwin, Ken Smith, Chris Vincent and Will Rubenstein voting in favor, and Jim Saben opposed.

Public Comments: Chris Greeley noted the importance of communication and public participation, concerns about septic, not allowing by-right, and needed input from Town Counsel.

3. **Meeting Minutes:**

a. **February 15, 2023:** Jim Saben expressed concerns with identifying one member's opinion in the minutes, whereas other opinions are attributed to the majority of the Board. The Board agreed to eliminate the reference of an individual Board member and denote that one Board member expressed those opinions. Subsequent to this discussion, the Board voted as follows:

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.

4. **Board of Appeals Agenda & Decisions:** The attached ZBA Agenda was sent to the Planning Board via e-mail.

5. **Committee Updates from Board Members:**

a. **DY Intermediate Middle School:** Will Rubenstein indicated the new school will be open to students on March 1st and there will be a formal Open House sometime in the future. He noted that the auditorium still needs chairs and will not be ready for the Annual Town Meeting but should be available for the Fall Town Meeting. The fields will be completed later this spring, but use will be dependent upon grass growth. The new traffic pattern will begin on February 27th with active use of the new traffic signal on Station Avenue.

b. **Drive-In Site Utilization Committee (DISUC):** The Boardwalk portion of the Riverwalk Park will be going for a Special Permit from the ZBA for a Municipal Recreational Use in a residential zoning district on February 23rd.

6. **Board Member Items:** Brad Goodwin noted he would be remote for the March 1st meeting.

7. **Correspondence:** The attached correspondence was sent to the Planning Board via e-mail.

8. **Staff Updates:** None.

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9. Upcoming Meetings:

- a. March 1, 2023
- b. March 15, 2023

10. Adjournment: VOTE: On a motion by Susan Brita, seconded by Will Rubenstein, the Planning Board voted unanimously (7-0) to adjourn at 6:56 PM.

ATTACHMENTS:

- **February 22, 2023 Agenda**
- **Sign-In Sheet and Remote Participants**
- **Accessory Dwelling Units (ADUs):** Draft #7 Section 407 – Accessory Apartments, dated February 17, 2023; Draft #8, dated February 21, 2023 with Town Counsel Edits/Comments; Draft Zoning Article 1 – Section 407, dated February 17, 2023; February 21st email from Mary Waygan regarding existing Affordable Accessory Apartments; January 4, 2023 Memo from Mark Grylls, Building Commissioner, regarding 2022 Enforcement Process and Volume; and written public comments.
- **Draft Minutes:** February 15, 2023
- **Miscellaneous Correspondence:**
 - ZBA Agenda February 23, 2023
 - 2/16/23 Town Planner email regarding repetitive petitions
 - 2/17/23 Town Planner email regarding kitchen stove requirements

Approved on April 5, 2023:

On a motion by Ken Smith, and seconded by Chris Vincent, the Planning Board voted (4-0-1) to approve the meeting minutes of February 22, 2023, with Joanne Crowley, Ken Smith, Chris Vincent, and Will Rubenstein voting in favor, and Peter Slovak abstaining.