

Town of Yarmouth
MINUTES OF THE PLANNING BOARD MEETING OF
January 4, 2023

The Yarmouth Planning Board held a Hybrid in-person/remote access Business Meeting at **5:30** p.m. on Wednesday **January 4, 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, and Brad Goodwin

Planning Board Absent: Chris Vincent and Ken Smith (new member)

Staff Present: Kathy Williams, Town Planner; Mary Waygan, Housing Administrator; and Mark Grylls, Building Commissioner

Guests: Members of the Community Housing Committee – Marcia Bissell, Lee Hamilton and Lorraine Doyle

1. **Meeting Opening:** Chair Joanne Crowley opened the hybrid meeting at 5:32. Planning Board members were in-person, except Brad Goodwin who was remote. All votes were roll call votes. Joanne Crowley noted the addition of a new Planning Board member, Ken Smith, who was unable to attend the meeting this evening.
2. **Draft Housing Production Plan (HPP) - Continued:** Joanne Crowley gave a brief overview of the Planning Board's December 7th review of the draft HPP and the requested amendments which included: changing reference from ADUs to Accessory Apartments, modify the timeframe for the Zoning amendments for Accessory Apartments to 1-2 years; adding a glossary and definitions; and editing Table IV-1 to eliminate street addresses/project names and clarify purpose of table. Ms. Crowley noted that it appears that the attached amended HPP addressed these comments. The Board expressed appreciations for the effort expended on the HPP and for making the changes. Various Board members asked questions about the glossary, public comments, ADUs still being listed in some places, and size of units. Ultimately the Board requested the following minor amendments:
 - Fix the cut off sentence in the text box on page 96.
 - Use initials in lieu of full names in Appendix 7 related to Public Comments.
 - Ensure the term accessory apartment is used and not accessory dwelling unit where appropriate.

VOTE: On a motion by Brad Goodwin, and seconded by Will Rubenstein, the Planning Board voted (5-0) to endorse the amended Housing Production Plan and recommend the plan to the Board of Selectmen and Department of Housing and Community Development (DHCD) for approval, with Brad Goodwin, Susan Brita, Jim Saben, Joanne Crowley, and Will Rubenstein voting in favor.

3. **Accessory Dwelling Units (ADUs):** Joanne Crowley gave a brief overview of the Planning Board's efforts to amend the accessory apartment bylaw including public input from the Citizen Petition Public Hearings, the December 7th Planning Board meeting and the December 12th ADU Listening Session held jointly with the Community Housing Committee. The Listening Session solicited public input on the same Discussion Topics and Questions the Planning Board has been reviewing. Ms. Crowley noted that the meeting packet included the attached minutes for the December 7th and December 12th meetings, as well as some supplemental information provided by Luke Chapman after the listening session.

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Kathy Williams reviewed in detail the attached Draft #1 of Section 407 – Accessory Apartments, dated January 4th, along with supplemental questions discussed at the meeting. The Planning Board had a thoughtful discussion on the draft and accepted many of the provisions except as outlined below:

- a. Purpose & Intent: Move references to environmental resources and residential neighborhood character closer to the top and add something noting the better utilization of the existing housing stock.
- b. Variances: Reword to note that accessory apartments “are not eligible” for Variances from the minimum requirements.
- c. Kitchens: Discussed what would be an adequate kitchen and whether specific language is needed. Discussed using the minimum standards from the 2019 proposed amendments.
- d. Lot & Unit Size: Kept the 10,000 sf minimum lot size for now but the Planning Board was looking for more detailed information on the number of residential lots of varying lot sizes prior to potential increases to minimum lot size and/or increasing the maximum unit size from 800 sf to 900 sf.
- e. Dimensional Standards: Add language for review that expansions to non-conforming structures need to meet the current dimensional standards.
- f. Door Placement: The Board had discussion on whether the location of the accessory apartment door had to be on the side or rear or whether this could be eliminate. More discussion by the Board is needed on this issue.
- g. Number of bedrooms: The Board agreed to limit an accessory apartment to 2-bedrooms.
- h. Parking: The Board discussed location of the parking with one member expressing concerns about people paving their front lawns to provide the needed parking. Staff will look at some potential clarifying language.
- i. Primary Residence: The Board wanted to retain the primary resident/owner language and eliminate the allowance for temporary absences. The Board had a discussion on who would be considered the owner with further clarification needed. Need to retain language ensuring only one unit is rented.
- j. Home Offices/Home Occupations: Most Board members were fine with allowing the limited Home Offices or Home Occupations per Section 416. The Board briefly discussed daycares but decided not to modify the language at this time.
- k. Wastewater and bedroom limitations: The Board had a more detailed discussion on a potential provision that would not allow for an increase in the number of existing bedrooms unless the lot is served by municipal sewer and received a sewer allocation to increase bedrooms. The board discussed how this could impact those outside of the Zone 2 of our drinking water wells (contributing area) and/or nitrogen impaired estuaries. Ultimately the Board eliminated this section but inquired as to the number of residential lots located in the Zone 2.
- l. By-Right: The attached draft required all accessory apartments to be by Special Permit except for three specific conditions for which by-right would be allowed. After discussion, the Board agreed on the following by-right conditions: accessory apartments on fully complying lots and structures; those located within existing structures with no minimum lot size limitation but limited to a studio/1-bedroom; and expansion/new construction meeting the current dimensional standards, but on a minimum 25,000 sf lot and limited to a studio/1-bedroom. The Board did want additional information on lot sizes to assess any changes to the 25,000 sf minimum lot size stipulation.
- m. Affordability: After discussion, the Board felt there should be no income eligibility or maximum rental limitations to avoid discouraging people from creating accessory apartments as well as potential issues with enforcement. The Board briefly discussed possible tax incentives to voluntarily limit rental rates.

- n. **Documentation:** The Board felt copies of the lease should be provided with the Affidavit.
- o. **Inspections:** The Board felt the accessory apartments for family related (which do not get rental certificates from the Health Department) should continue to be inspected every 2-years by the Building Department.
- p. **Conversion of existing Family Related or Affordable Accessory Apartments:** The Board felt that the affordable accessory apartments should not be eligible for converting to a regular rental accessory apartment, but that family related apartments should. Discussed doing this through a special permit by the ZBA and need to address the existing Covenant recorded at the registry. Additional input from Town Counsel is needed.

The Board briefly discussed the timeline and schedule leading up to the 2023 Annual Town Meeting (ATM). Kathy Williams indicated the latest date for the formal Public Hearing would be March 15th with the closing of the warrant by March 21st or 28th depending upon when the Board of Selectmen (BOS) meet. This leaves little time to continue with draft amendments, especially as the January 18th meeting has Public Hearings on two larger projects. The accessory apartments will be taken back up at the February 1st meeting.

4. **Meeting Minutes:**

- a. **December 7, 2022:** On a motion by Jim Saben, and seconded by Will Rubenstein, the Planning Board voted (5-0) to approve the meeting minutes of December 7, 2022, with Jim Saben, Susan Brita, Joanne Crowley, Brad Goodwin, and Will Rubenstein voting in favor.
- b. **December 12, 2022 – ADU Listening Session Notes – No Quorum:** On a motion by Jim Saben, and seconded by Will Rubenstein, the Planning Board voted (3-0-2) to approve the meeting notes of December 12, 2022, with Jim Saben, Susan Brita, and Joanne Crowley voting in favor, and Brad Goodwin and Will Rubenstein abstaining.

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

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

- a. **Drive-In Site Utilization Committee (DISUC):** Jim Saben noted that the plans for the Riverwalk Park, Boardwalk & Event Space are about 85% complete and the Community Preservation Committee (CPC) voted to recommend the request for additional funding which will be on the 2023 Annual Town Meeting Warrant. Kathy Williams noted the request is substantial including a request for a bonding authorization as construction costs have increased quite a bit due to unprecedented inflation.
- b. **Community Preservation Committee (CPC):** Joanne Crowley noted that the CPC voted on 10 applications including the Riverwalk Park and still have money built up for next year.
- c. **Water Resources Advisory Committee (WRAC):** Joanne Crowley noted that the final WRAC presentation was conducted at the Route 6A Fire Station and was the most well attended of the series.
- d. **Capital Budget Committee (CBC):** Will Rubenstein noted that the CBC has handed off the Capital Improvement Plan (CIP) to the Finance Committee.

7. **Board Member Items:** Joanne Crowley noted that she and staff met with Kristi Senatori and other Town and Cape Cod Commission staff to look at Regional Housing Strategies. Joanne Crowley also noted that she and staff met with the Chamber of Commerce to talk more about seasonal employee housing and the issues which occurred with the withdrawn Village Green request before the Zoning Board of Appeals. The Community Partnership may be coming back to the Planning Board with some suggested amendments for fall town meeting.

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

9. **Staff Updates:** None.

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10. **Upcoming Meetings:**

- a. January 18, 2023 – Public Hearings – J-Mart ROAD Application 2022-2 and Davenport Cluster Definitive Subdivision 2936C and Special Permit Application 117
- b. February 1, 2023 – VCOD SPR Riverwalk Park

11. **Adjournment: VOTE:** On a motion by Jim Saben, seconded by Will Rubenstein, the Planning Board voted unanimously (5-0) to adjourn at 8:11 PM.

ATTACHMENTS:

- **January 4, 2023 Agenda**
- **Draft Housing Production Plan (HPP):** List of Redlines and Edits to the Draft HPP dated December 28, 2022; Redline pages and additions to the Draft HPP only; 12/9/22 e-mail from Elvio Rodrigues; and draft memo regarding endorsement of HPP
- **Accessory Dwelling Units (ADUs):** Draft #1 Section 407 – Accessory Apartments, dated December 30, 2022; current Section 407; 12/12/22 e-mail from Luke Chapman along with his Summary of ADU Housing Project from other Towns
- **Draft Minutes:** December 7, 2022 and December 12, 2022 (Notes from ADU Listening Session)
- **Miscellaneous Correspondence:**
 - Conservation Commission Agendas for 12/15/22 and 1/5/23
 - ZBA Decisions 4987 & 4989
 - Cape Cod Commission Housing Profile for Yarmouth and Barnstable County

Approved on February 1, 2023:

On a motion by Jim Saben, and seconded by Will Rubenstein, the Planning Board voted (4-0-1) to approve the meeting minutes of January 4, 2023, with Jim Saben, Susan Brita, Joanne Crowley, and Will Rubenstein voting in favor, and Ken Smith abstaining.