

**Town of Yarmouth**  
**MINUTES OF THE PLANNING BOARD MEETING OF**  
**March 1, 2023**

The Yarmouth Planning Board held a Hybrid in-person/remote access Business Meeting at **5:30** p.m. on Wednesday **March 1, 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:** Attorney Paul Tardif

1. **Meeting Opening:** Chair Joanne Crowley opened the hybrid meeting at 5:32. Planning Board members were all in-person, except for Brad Goodwin. All votes were roll call votes.
2. **Definitive Subdivision #2936C:** Endorsement of Definitive Plan 2936C, The Davenport Companies, 14-lot cluster subdivision located on un-numbered lot off Route 6A, Assessor Map 125, Parcel 39.

The Approval for Definitive Subdivision 2936C and Special Permit #117 for the Davenport 14-lot cluster subdivision has gone through the appeal period without any appeals being filed. The Town Clerk has signed the Definitive Subdivision noting no appeals and the Planning Board Chair, Joanne Crowley signed the Definitive Subdivision Plan mylar at the meeting. Both the mylar, and the original copy of the Special Permit with the Certificate of Granting of a Special Permit and Certification of the Town Clerk, were given to Attorney Paul Tardif at the meeting for recording at the Barnstable Registry of Deeds.

3. **Municipal Wastewater:** Discussion on providing support letter for municipal wastewater.

Kathy Williams gave a brief overview of the wastewater program as outlined in the attached PowerPoint Presentation, noting that the presentation would be given at the March 2<sup>nd</sup> Conservation Commission Meeting. The Board members reviewed the attached draft support letter. Committee members had questions/comments related to having the support memo come from the entire board, discussed the funding sources and noted the hard work to make the wastewater program as cost effective as possible, discussion on financial assistance available to residents for sewer connections, discussed how the cost of doing nothing is significant including the MassDEP new regulations regarding innovative/alternative systems, reviewed the project schedule noting that construction would begin on portions of phase 1 in 2023 if funding is approved at the 2023 Annual Town Meeting (ATM), growth management mechanism to control growth to the build out limitations, and need for contract management during construction and staffing. The Planning Board did have a further discussion on future zoning amendments related to sewerage and need to ensure aesthetics and encourage mixed use.

After discussion, the Board agreed to provide a support Memo from the entire Planning Board and include a reference to the amount of hard work the Town has done to make the wastewater program as cost effective to residents as possible.

**VOTE: On a motion by Jim Saben, and seconded by Ken Smith, the Planning Board voted unanimously (6-0) to send an amended Memo to the Board of Selectmen supporting the municipal wastewater program, with Susan Brita, Jim Saben, Joanne Crowley, Will Rubenstein, Brad Goodwin, and Ken Smith voting in favor.**

4. **Seasonal Employee Housing:** Discussion and possible support letter regarding the Town 'N Country Family Resort Motel, 452 Route 28, proposed Zoning Board of Appeals Petition for 50% seasonal employee housing (72 out of 148 rooms).

The Planning Board reviewed the attached draft support letter, noting this would be the second (and last) such support letter for a motel seeking a Special Permit for seasonal employee housing over 15% for the 2023 season. Joanne Crowley noted that the Community Partnership is interested in working with the Planning Board on potential amendments for the fall Special Town Meeting. The Board members discussed letters of support in general, the review conducted last fall for seasonal employee housing, discussed the owners past and proposed protocols, safety reminders for those crossing Route 28, noted that the Red Jacket offers meals for their employees, the closure of the outdoor pool in the rear, use of shuttle vans and the request for a two-year authorization.

The consensus of the Board was to send a support memo to the ZBA limiting their support to one-year and noting in the memo the closure of the outdoor pool closest to the residential neighborhood and the use of shuttle vans as other mitigation measures.

5. **Accessory Apartment Bylaw Amendments:** Discussion on public engagement process and zoning amendments related to Accessory Apartments/Accessory Dwelling Units (ADUs), in preparation for the fall 2023 Special Town Meeting.

Kathy Williams gave an overview of the status of the amendments (currently on Draft #8). Town Counsel needs to provide further input on the transfer of sale. She met with the assessing and GIS staff to get a better spreadsheet of single family residential properties and residential vacant properties that would be eligible for an Accessory Apartment as currently written. Working on eliminating the Affordable single family homes and those within a Comprehensive Permit development, which would be ineligible per the latest draft.

Once the Board has a document they are satisfied with and want to receive public comment on, it was suggested to have three public listening sessions, one in each village, and go point by point through the amendments and garner input. Locations discussed include Town Hall for South Yarmouth (as it can be recorded/hybrid), Cape Cod Realtors or Senior Center for West Yarmouth and Fire Station 2 for Yarmouth Port. The Board had a general discussion on schedule, backtracking from a late October Fall Town Meeting.

- Finalize Planning Board Edits: March/April
- Three Listening Sessions: Late May/June
- Board Review of Input and Revisions as needed: July/early August
- Public Hearing: September (first meeting or second meeting at the latest)
- Fall Town Meeting: October (assume end of month)

The Board also discussed setting the date/locations for the public meetings early to allow more time for publicity including handing out information cards at the Annual Town Meeting.

The Board also noted that additional public input will need to be incorporated into this schedule for other zoning amendments, such as for seasonal employee housing.

6. **Blue Sky Tower III Communication Tower:** Discussion and possible comment letter regarding Zoning Board of Appeals (ZBA) Petition 5005 for a 115' tall communication tower proposed for 1044 Route 28, Assessor Map 50, Parcel 189.1.

Joanne Crowley noted that the Planning Board had commented on the cell tower as part of the Cape Cod Commission (CCC) Development of Regional Impact (DRI) process noting concerns with height, aesthetics and location along Route 28. Kathy Williams reviewed the latest plans and renderings with the Board which attempts to camouflage the cell tower as a three sided clock tower. The Board discussed the coverage gap considerations, ways to utilize multiple methods to address coverage gap rather than one large tower, the concealed antenna monopole (CAM) behind the post office, use of the radio tower, concerns with distraction from the clock tower and orientation and that the proposed height is like an 11 or 12 story building. Kathy Williams reviewed her attached February 28<sup>th</sup> e-mail noting some key talking points for a potential comment letter including any input the Board may have on the revised clock tower; impacts to height, location and planning efforts along Route 28; concerns about control over the fall area to prevent loss of trees used for screening; and recommendation of a peer review to evaluate the coverage gap and evaluate whether other less intrusive options could be combined together, as well as whether the tower could be reduced in height and still address a reasonable amount of any coverage gap.

**VOTE:** On a motion by Brad Goodwin, and seconded by Ken Smith, the Planning Board voted unanimously (6-0) to recommend to the Zoning Board of Appeals that a peer review be conducted to evaluate the coverage gap, and evaluate whether other less intrusive options including but not limited to CAMs, existing towers, and pole top antennas could be used, as well as whether the tower could be reduced in height, and still address a reasonable amount of any coverage gap, with Susan Brita, Jim Saben, Joanne Crowley, Will Rubenstein, Brad Goodwin, and Ken Smith voting in favor.

The Planning Board Chair will work with Staff to draft a memo to the Zoning Board of Appeals.

The Board also discussed sending in as a separate submission to the Zoning Board of Appeals, the three letters that the Planning Board had previously sent to the Cape Cod Commission as part of the DRI review process.

**VOTE:** On a motion by Jim Saben, and seconded by Susan Brita, the Planning Board voted (5-1) to transmit to the Zoning Board of Appeals the three (3) letters sent from the Planning Board on June 2, 2021, December 2, 2021 and December 16, 2021 to the Cape Cod Commission regarding the Blue Sky Towers Monopole in Yarmouth, with Susan Brita, Jim Saben, Joanne Crowley, Will Rubenstein, and Ken Smith voting in favor, and Brad Goodwin opposed.

Brad Goodwin noted that he would transmit the letters he sent to the Cape Cod Commission to the Zoning Board of Appeals.

7. **Meeting Minutes:** None
8. **Board of Appeals Agenda & Decisions:** The attached ZBA Decisions were sent to the Planning Board via e-mail.
9. **Committee Updates from Board Members:**
- a. **DY Intermediate Middle School:** Will Rubenstein noted that the new middle school is open and there will be a formal Open House sometime in the future.
  - b. **Community & Economic Development Committee (CEDC):** Jim Saben indicated the CEDC met on 2/28 and developed their budget for next year. The Committee is also going to be meeting with state officials to talk about ways to bring businesses to Town.

- c. **Drive-In Site Utilization Committee (DISUC):** The Boardwalk portion of the Riverwalk Park received approval for the Special Permit from the ZBA for a Municipal Recreational Use in a residential zoning district.
10. **Board Member Items:** None.
11. **Correspondence:** The attached correspondence was sent to the Planning Board via e-mail.
12. **Staff Updates:** Kathy Williams noted that the Board will be reviewing a proposed HMOD2 project in April or May.
13. **Upcoming Meetings:**
- March 15, 2023
  - April 5, 2023
14. **Adjournment: VOTE:** On a motion by Jim Saben, seconded by Will Rubenstein, the Planning Board voted unanimously (6-0) to adjourn at 7:34 PM.

**ATTACHMENTS:**

- **March 1, 2023 Agenda**
- **Municipal Wastewater:** Draft February 27, 2023 Support Letter for municipal wastewater and PowerPoint Presentation on wastewater project
- **Seasonal Employee Housing:** Draft Memo to ZBA regarding Town 'N Country petition, petition application/narrative, and aerial of the site
- **Blue Sky Tower:** Excerpts of plans from ZBA application 5005, three letters from the Planning Board submitted as part of the Cape Cod Commission Development of Regional Impact process, one rendering and Link to [Renderings](#) on Laserfiche for Petition 5005, and February 28<sup>th</sup> e-mail from Town Planner
- **Miscellaneous Correspondence:**
  - Conservation Commission Agenda for 3/2/23
  - ZBA Decisions 5001 & 5002

**Approved on April 5, 2023:**

On a motion by Will Rubenstein, and seconded by Ken Smith, the Planning Board voted (3-0-2) to approve the meeting minutes of March 1, 2023, with Joanne Crowley, Ken Smith, and Will Rubenstein voting in favor, and Peter Slovak and Chris Vincent abstaining.