

**Town of Yarmouth**  
**MINUTES OF THE PLANNING BOARD MEETING OF**  
**July 12, 2023**

The Yarmouth Planning Board held a Hybrid in-person/remote access Workshop Meeting with the Zoning Board of Appeals (ZBA) at **6:00** p.m. on Wednesday **July 12, 2023** in Conference Room A at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

**Planning Board Present:** Joanne Crowley, Ken Smith, Peter Slovak and Jim Saben

**Planning Board Absent:** Chris Vincent, Will Rubenstein and Susan Brita

**Zoning Board of Appeals Members Present:** John Mantoni, Jay Fraprie, Steve DeYoung, and Dick Martin

**Staff Present:** Kathy Williams, Town Planner; Mark Grylls, Building Commissioner, and Dolores Fallon, ZBA Office Administrator

1. **Meeting Opening:** Chair Joanne Crowley opened the hybrid meeting at 6:01 PM. Zoning Board of Appeals members and Planning Board members were all in-person, except for Jim Saben. All votes were roll call votes.
2. **Joint Meeting between the Planning Board and the Zoning Board of Appeals (ZBA):** The Planning Board met with the ZBA to discuss the proposed zoning bylaw amendments to Section 407- Accessory Apartments and discuss other future zoning amendments the ZBA may find beneficial in the execution of their duties.
  - a. **Draft #12 Accessory Apartment Zoning Amendments:** Kathy Williams reviewed the attached Draft #12 of the Accessory Apartment Zoning Amendments. Joanne Crowley opened it up to comments from the ZBA and summarized the three specific items of note from the Listening Sessions including Special Permit/By-Right permitting, definition of ownership and parking.
    - **Steve DeYoung:** Mr. DeYoung was in favor of keeping the current proposed parking at two (2) for the single-family home and two (2) for the accessory apartment regardless of bedrooms as there will likely be two drivers with two incomes. Mr. DeYoung was concerned about properties being unkept, with parking everywhere with no owner occupant and was in support of owner occupancy.
    - **Jay Fraprie:** Mr. Fraprie noted that parking is always a concern and agrees with the two plus two parking provision as there may also be guests. He agreed with a couple of the carve outs that could be approved by the Building Commissioner, specifically noting the ZBA's heavy agendas.
    - **Dick Martin:** Mr. Martin expressed reservations about the amendments noting the groundwater impacts of additional units and people on small lots. He was in full support of Special Permits via the ZBA and felt none should be permitted by-right. He expressed concerns about what the units will look like and whether we would be creating duplexes on quarter acre lots and how that impacts the quality of single-family neighborhoods. He indicated he would feel better if we had sewers in place in the neighborhoods. Mr. Martin indicated it may make sense to allow second homeowners to create accessory apartments to have someone year-round on the property even if the owner is not. Mr. Martin acknowledged the housing issues but noted Yarmouth already has lower housing costs than other communities.

- John Mantoni: Mr. Mantoni felt Dick Martin made some good points. He was in support of Special Permit only and owner occupied only.
  - Steve DeYoung: Mr. DeYoung noted that the current Accessory Apartment bylaw was specifically limited to family related to avoid many of the issues Dick Martin mentioned and to Affordable to get our affordable unit numbers up. Kathy Williams noted that the costs of constructing an accessory apartment compared to the rents allowed via an Affordable unit, resulted in few units being created which is why we only have about 3 Affordable units and 52 family related. Joanne Crowley noted that the current amendments would eliminate the Affordable rent requirement and allow the units to be rented at market rates to anyone (no longer restricting the tenant), and that the proposed amendments would be a complete replacement of the current bylaw.
  - Jay Fraprie: Mr. Fraprie noted that people can rent out rooms now. He agreed that density is an issue.
  - Jim Saben: Mr. Saben noted this amendment is trying to provide another housing option as 48% of workers travel from off Cape. Although it won't solve the problem, it can be part of the solution. Costs of construction will limit the number of units created. Mr. Saben had no issues with the by-right carve outs 1 and 3 but commented that if require all Special Permits could consider eliminating the minimum lot sizes or some of the other restrictions.
  - Peter Slovak: Mr. Slovak inquired about the 2<sup>nd</sup> by-right carve out which allows for accessory apartments within existing structures and how this relates to a garage that was given previous relief for side yard setbacks, but the owner now wants to convert to an accessory apartment. ZBA members noted that they typically restrict garages in this scenario to uninhabitable, which would require ZBA relief to turn into habitable space.
  - Steve DeYoung: In response to an inquiry from Joanne Crowley, Mr. DeYoung noted that the definition of habitable needs to be clear. He felt the extra 100 sf for a 2<sup>nd</sup> bedroom is very small. Jay Fraprie noted that the 50% of habitable floor area limits the size a lot. Mark Grylls read the definition of habitable floor area within the amendment noting that could expand on the definition.
  - Dick Martin: Mr. Martin asked if it will be up to the ZBA to decide how the apartment looks and if they can say no to a specific style.
  - Steve DeYoung: Mr. DeYoung inquired about selling the apartment separately. Kathy Williams indicated the amendments specifically do not allow the apartment to be in separate ownership or placed in a condominium form of ownership. Mr. DeYoung noted the number of illegal rentals in town.
  - Jim Saben: Mr. Saben commented on how the character of the community varies around town, noting some housing styles along Berry Avenue and referencing the restrictions of Old Kings Highway north of Route 6. He questioned putting the character of the community in the hands of any board as opinions vary. Mr. Martin indicated the mixture of housing is the character of some neighborhoods, but others such as Captain's villages have a nice character which can be impacted with rentals. Mr. DeYoung noted the Special Permit criteria from Chapter 40A under which all Special Permits are judged. Joanne Crowley noted the provisions in the amendments only call for the accessory apartment to look like the primary, be subordinate to the primary and fit into the neighborhood. Steve DeYoung indicates that the ZBA does not tell people how to design their structures.
- b. Seasonal Employee Housing at Motel/Hotel: Joanne Crowley noted that the ZBA has had a few applicants under these provisions and the Planning Board has provided letters of support in the past for some of them (Steve DeYoung encouraged the Planning Board to continue doing so). Kathy Williams indicated that the Planning Board wanted to know whether the ZBA was

comfortable administering the bylaw as is or whether they would suggest any modifications that would make their work easier.

Ms. Crowley noted some comments from the Community Partnership, such as allowing for a Special Permit to be for 2-years. Jay Fraprie and Steve DeYoung both noted that the ZBA do 1-year special permits initially but are comfortable expanding to 2-years based on how the first year went and how the motel was managed.

Ms. Crowley inquired as to whether we should clarify the code of conduct within the zoning bylaw that the motel owner needs to enforce. The members did not seem inclined to expand upon this.

Dick Martin noted that 100% employee housing in motels should not be allowed in residential zones. He noted how seasonal employees are moved around to different motels and this issue should be addressed. Kathy Williams suggested eliminating the ability to have more than 15% in the HMOD2. Jay Fraprie felt it could be kept to the B2 zone.

- c. **Solar Canopies**: The ZBA members discussed solar canopies over parking lots, referencing the Cape Cod Hospital parking lot and how there may be a proliferation of solar canopies that could be located over parking in front of stores and whether some kind of solar bylaw is needed. Kathy Williams noted that the Planning Board had briefly discussed this and the potential of limiting them to the side/rear of structures. Mark Grylls noted that Chapter 40A prohibits unreasonable regulation related to solar, similar to schools. He further noted that he considers them structures and they need to meet the building coverage. Kathy Williams noted the potential impact to in-lot trees from solar. Jay Fraprie noted that he attended the planning for solar segment at the CPTC Annual Conference which highlighted multiple needs in the state to reclaim land for forests, housing and solar.
  - d. **Other Items**: The ZBA Board members mentioned other types of applications that come before them:
    - **Signs**: The Board receives requests related to increases in the size of signs, allowing for more signs, neon, electronic/moving messages, and murals & art/sculpture. Discussed difficulty of regulating art/murals which may be better served in a separate policy outside zoning.
    - **EV Charging Stations**: The ZBA received an application for installation of free EV charging stations with the inclusion of electronic signs with changing advertising. Kathy Williams had briefly spoken with the applicant indicating they should prepare a letter requesting a meeting with the Planning Board if they wanted to move forward but have not heard back from them.
    - **Single lot cottage communities**: The ZBA receives requests for single lot cottage colonies to expand the size of the small cottages. The ZBA recently had one that they approved but is being appealed. Discussed whether we want to allow for the increase in the size of these cottages.
3. **Adjournment: VOTE**: On a motion by Peter Slovak, seconded by Ken Smith, the Planning Board voted unanimously (4-0) to adjourn at 7:40 PM.

**ATTACHMENTS:**

- July 12, 2023 Agenda
- Discussion Topics
- Draft #12 Accessory Apartments Zoning Amendments, dated May 4, 2023
- Section 404.5 – Seasonal Employee Housing at Motels/Hotels

***Approved on August 2, 2023:***

**On a motion by Susan Brita, and seconded by Ken Smith, the Planning Board voted (4-0-1) to approve the meeting minutes of July 12, 2023, with Susan Brita, Peter Slovak, Ken Smith and Joanne Crowley voting in favor, and Chris Vincent abstaining.**