

# Town of Yarmouth

Per M.G.L.: All town and school boards, committees, commissions, and authorities shall post a notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays, and legal holidays. Notice shall contain a listing of topics/agenda that the chair reasonably anticipates will be discussed at the meeting.

## Notice of Meetings

Name of committee, board, etc:	<b>Planning Board</b>
Date of Meeting:	<b>July 12, 2023</b>
Time:	<b>6:00 p.m.</b>
Place:	<b>Conference Room A</b> <b>1146 Route 28, South Yarmouth, MA 02664</b> <b>OR</b> <b>Zoom Link: <a href="https://us02web.zoom.us/j/89836415124">https://us02web.zoom.us/j/89836415124</a></b> <b>Phone: +1 301 715 8592 and enter webinar</b> <b>ID: 898 3641 5124</b>

This is to formally advise that, as required by M.G.L. Chapter 30A, §§ 18-25, and pursuant to Chapter 20 of the Acts of 2021, *An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency*, signed into law on June 16, 2021, as extended by Chapter 2 of the Acts of 2023, the Yarmouth Planning Board will hold a public meeting at the date and time noted on the Notice of Meeting. The public is welcome to attend either in-person or via the alternative public access provided on the Notice of Meeting available on the Town of Yarmouth website.

### Agenda (Topics to be discussed):

1. **Joint Meeting between the Planning Board and the Zoning Board of Appeals (ZBA):** The Planning Board will be meeting 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.
2. Adjournment

Attachments: All exhibits are available for public review in the Planning Department, Yarmouth Town Offices, 1146 Route 28, South Yarmouth, MA, during normal business hours.

Posted By (Name):	Kathleen D. Williams
Signature:	<i>Kathy Williams</i>

# Town of Yarmouth

Per M.G.L.: All town and school boards, committees, commissions, and authorities shall post a notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays, and legal holidays. Notice shall contain a listing of topics/agenda that the chair reasonably anticipates will be discussed at the meeting.

## Notice of Meetings

Name of committee, board, etc:	<b>Planning Board</b>
Date of Meeting:	<b>July 12, 2023</b>
Time:	<b>6:00 p.m.</b>
Place:	<b>Conference Room A 1146 Route 28, South Yarmouth, MA 02664 OR Zoom Link: <a href="https://us02web.zoom.us/j/89836415124">https://us02web.zoom.us/j/89836415124</a> Phone: +1 301 715 8592 and enter webinar ID: 898 3641 5124</b>

This is to formally advise that, as required by M.G.L. Chapter 30A, §§ 18-25, and pursuant to Chapter 20 of the Acts of 2021, *An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency*, signed into law on June 16, 2021, as extended by Chapter 2 of the Acts of 2023, the Yarmouth Planning Board will hold a public meeting at the date and time noted on the Notice of Meeting. The public is welcome to attend either in-person or via the alternative public access provided on the Notice of Meeting available on the Town of Yarmouth website.

### Agenda (Topics to be discussed):

1. **Joint Meeting between the Planning Board and the Zoning Board of Appeals (ZBA):** The Planning Board will be meeting 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.
2. Adjournment

Attachments: All exhibits are available for public review in the Planning Department, Yarmouth Town Offices, 1146 Route 28, South Yarmouth, MA, during normal business hours.

Posted By (Name):	Kathleen D. Williams
Signature:	<i>Kathy Williams</i>

YARMOUTH TOWN CLERK

'23JUL6PM2:35 REC

**Joint Planning Board and Zoning Board of Appeals Meeting  
July 12, 2023**

**DISCUSSION TOPICS:**

1. **Accessory Apartment Zoning Amendments:** Review of the attached Draft #12 of the Accessory Apartment Zoning Amendments, and review modifications being discussed by the Planning Board based on public input from the Listening Sessions including:
  - a. **Special Permits:** Retaining Special Permit requirement for all Accessory Apartments (no by-right carve outs).
  - b. **Owners:** Allowing 2<sup>nd</sup> homeowners to also be able to build an Accessory Apartment and not limiting it to residents only (excluding LLCs and Corporations).
  - c. **Parking:** Modifying parking requirements for the Accessory Apartment to 1 space/bedroom. Also looking for input from the ZBA on other parking requirements included in the draft amendments.
2. **Temporary Seasonal Employee Housing at Motels:** Discussion on any ZBA recommended modifications to the attached Zoning Bylaw Section 404.5 – Seasonal Employee Housing at Motels/Hotels.
3. **Solar Canopies over Parking Lots:**
4. **Other Issues:** Any other issues identified by the ZBA for future consideration by the Planning Board.

## 407. ACCESSORY APARTMENTS.

407.1 **Purpose and Intent**: The intent of this bylaw is to:

1. Broaden the range of housing choices available to residents by increasing the number of smaller dwelling units available in Yarmouth for year-round rental while protecting the character, appearance and property values of single-family residential neighborhoods.
2. Address the need for additional year-round rental housing units without significantly impacting our environmental resources.
3. Allow for better utilization and expansion of our existing housing stock.
4. Provide housing opportunities to support a strong, stable and diverse year-round community and a sustainable local workforce, prevent displacement of local residents, and facilitate “aging in place” for our senior citizens.
5. Provide an opportunity for family members who choose to live in close proximity, but separate from other family members, to remain within a family environment.

407.2 **Eligibility**: The following types of properties or developments are not eligible for an accessory apartment:

1. Deed restricted Affordable housing units.
2. All lots developed under a Comprehensive Permit (Chapter 40B).
3. Lots with more than one single-family dwelling unit.

407.3 **General Standards and Provisions**: All accessory apartments shall adhere to the following minimum requirements:

1. Accessory apartments shall be complete and separate housekeeping units that function independently from a primary single-family dwelling unit and shall include independent sleeping, cooking and sanitary facilities. Kitchens shall include at a minimum a sink, stove, and minimum 10 cubic foot refrigerator/freezer. No variances shall be permitted from this requirement.
2. Only one accessory apartment per lot shall be allowed. No variance shall be permitted from this requirement.
3. Dimensional Requirements:
  - a. Minimum lot size shall be 10,000 square feet for studio or 1-bedroom accessory apartments. Minimum lot size shall be 15,000 square feet for 2-bedroom accessory apartments.
  - b. Lots developed with an accessory apartment shall not exceed the allowable building coverage per section 203.5.
  - c. New construction or additions shall not exceed the maximum allowable building height allowed in section 203.4.
  - d. New detached accessory structures that include an accessory apartment must meet the dimensional requirements of section 203.5.
  - e. The expansion to pre-existing, non-conforming structures for an accessory

apartment must meet the setback requirements of section 203.5.

4. An accessory apartment may be located within, or attached to, a principal residential structure or in a detached accessory building on the same lot and shall clearly be subordinate to the principal structure.
5. The accessory apartment shall be designed so that, to the maximum extent practical, the appearance of the property and buildings remains that of a single-family residence and is consistent with the design of the principal single-family dwelling, considering the following: architectural details, roof design, building spacing and orientation, door and window location, and building materials.
6. An accessory apartment shall contain no more than 2-bedrooms and no variance shall be permitted from this requirement. Studio and 1-bedroom accessory apartments shall have a maximum habitable floor area that is not larger than 50% of the habitable floor area of the principal single family dwelling unit, or 800 square feet, whichever is smaller. Two-bedroom accessory apartments shall have a maximum habitable floor area that is not larger than 50% of the habitable floor area of the principal single family dwelling unit, or 900 square feet, whichever is smaller. Regardless of habitable floor area of the principal dwelling, accessory apartments shall not be less than 350 square feet. Garages, unfinished attics, basements, common entries, porches and decks are excluded from the habitable floor area calculations.
7. At least two (2) off-street parking spaces on the premises shall be required for use by residents of the principal dwelling unit and two (2) additional off-street parking spaces shall be required for use by the residents of the accessory apartment. There shall be no parking in existing green space in front of the principal dwelling unit, and no expansion of parking into green space areas in front of the principal dwelling unit. No new parking created for this use is allowed within ten (10) feet of the side or rear property lines.
8. All stormwater runoff from new impervious parking areas and new structures associated with the accessory apartment shall be retained on the property.
9. An accessory apartment is not intended for sale and shall not be held in separate ownership from the principal structure/dwelling unit nor placed in a condominium form of ownership.
10. Site plans (including parking locations and any proposed landscaping), and floor plans are required for all accessory apartments. In addition, architectural plans showing elevations and building materials shall be provided for any additions or new construction.
11. The owners of the principal structure shall occupy, as their primary residence, either the principal dwelling unit or the accessory apartment. If the owner intends to occupy the accessory apartment rather than the principal structure, the principal structure will then be designated as the "accessory apartment" for the purposes of this bylaw. The owner-occupied unit shall not be rented in any manner.
12. All accessory apartments shall be for year-round use. All lease agreements shall be for a minimum of twelve (12) consecutive months with no seasonal or Short-Term Rentals and no subletting or room rentals.

13. No commercial uses shall be allowed within an accessory apartment except for those meeting the Definitions of Home Offices, and Home Occupations per Section 416.
14. An accessory apartment shall adhere to all applicable State and local laws regulating new construction or residential use including the State Building Code, the applicable plumbing, electrical, fire, health, sanitary, conservation and historic regulations and bylaws. A Certificate of Occupancy shall be required for all accessory apartments.

#### 407.4 **Permit Procedure and Requirements:**

1. All accessory apartment uses shall require a Special Permit from the Zoning Board of Appeals, except under the following conditions, when a permit may issued by the Building Commissioner.
  - a. Fully Conforming Lot and Structure: With the construction of the proposed accessory apartment, the property will remain in full compliance with the current height requirements per Section 203.4 and the current dimensional standards per Section 203.5; OR
  - b. Existing Conforming or Non-Conforming Structures: The accessory apartment will be fully located within the existing principal dwelling without increase in structure height or size except to provide adequate means of entrance/egress for the unit, and is limited to a studio or 1-bedroom unit; OR
  - c. Expansion or New Construction: The expansion of the existing structure or a new detached structure for an accessory apartment where the expansion/new construction is in full compliance with the current height requirements per Section 203.4 and the current dimensional standards per Section 203.5, is constructed on a minimum 25,000 square foot lot, and is limited to a studio or 1-bedroom unit.

#### 407.5 **Records and Inspections:**

407.5.1 Documentation: The property owner shall be required to file a notarized affidavit with the Building Department by January 31<sup>st</sup> of each year, said affidavit including:

1. Identifying whether the principal dwelling or the accessory apartment will be used as the principal residence of the owner and not rented in any manner, and that the remaining unit will be leased for a period of not less than 12 consecutive months, with a copy of the lease agreement provided with the affidavit. OR
2. Identifying whether the principal dwelling or the accessory apartment will be used as the principal residence of the owner and not rented in any manner, and that the remaining unit will not be rented as it is being utilized by a family member, with the name and relationship of the family member identified. A family member shall be related to the owner(s) by blood, marriage or law, or other long-term family-like relationship that is care-giving or parental in nature.

407.5.2 Inspections:

1. All accessory apartments to be rented shall be registered annually through the Yarmouth Health Department and shall comply with any and all requirements of the Board of Health.
2. All accessory apartments which are not rented and are used by a family member shall be inspected once every two (2) years by the Building Commissioner for which there may be an additional user fee in the amount set by the Board of Selectmen, payable at the date of inspection.

407.5.3 The Building Commissioner and/or Health Department shall maintain a running, up-to-date log of approved and/or inspected accessory apartments.

407.5.4. Failure to pass inspection or submit annual affidavits may be cause for the Building Commissioner to implement enforcement, including but not limited to a requirement for cessation of the accessory apartment use and removal of cooking, sanitary, sleeping facilities or structural portions previously approved, associated with the addition of the accessory apartment. Zoning Bylaw violations are subject to penalties outlined in Section 101.3.

**407.6 Existing Family-Related Accessory Apartments and Affordable Accessory Apartments created before the effective date of this bylaw:**

407.6.1 Existing Family-Related Accessory Apartments created before the effective date of this bylaw:

1. Lawful family-related accessory apartments existing at the effective date of this bylaw may continue under the issued Special Permit and Declaration of Covenants recorded at the Barnstable County Registry of Deeds. The requirements of Section 407.5 - Records and Inspections, shall apply to existing family-related accessory apartments.
2. The Special Permit and Declaration of Covenants for a family-related accessory apartment may be terminated by the owner(s) provided the family-related accessory apartment is removed and upon a satisfactory inspection by the Building Commissioner.
3. Lawfully existing family-related accessory apartments may be converted into a rental accessory apartment through a Special Permit from the Zoning Board of Appeals. In this circumstance, the Board of Appeals may waive the General Standards and Provisions of Section 407.3 through the Special Permit, but shall not allow for an increase in the accessory apartment size. Upon issuance of a Special Permit, any previously filed Covenants shall be released by the Zoning Board of Appeals with an appropriate recording at the Barnstable Registry of Deeds.

407.6.2 Existing Affordable Accessory Apartments created before the effective date of this bylaw:

1. Lawful Affordable Accessory Apartments, existing as of the effective date of this bylaw, may continue under the issued Special Permit, Declaration of Covenants and Affordable Housing Restriction recorded at the Barnstable County Registry of Deeds. The requirements of Section 407.5 - Records and Inspections, shall apply to existing Affordable Accessory Apartments.
2. The Special Permit, Declaration of Covenants and Affordable Housing Restriction for an affordable accessory apartment may be terminated by the owner(s) provided the affordable accessory apartment is removed and upon a satisfactory inspection by the Building Commissioner and in accordance with the Affordable Housing Restriction, as may be applicable.
3. Lawfully existing Affordable Accessory Apartments may be converted into a rental accessory apartment through a Special Permit from the Zoning Board of Appeals, provided that such conversion is not prohibited by the terms of any affordable housing restriction governing the use of the unit. In this circumstance, the Board of Appeals may waive the General Standards and Provisions of Section 407.3 through the Special Permit, but shall not allow for an increase in the accessory apartment size. Upon issuance of a Special Permit, any previously filed Covenants or Affordable Housing Restrictions shall be released with an appropriate recording at the Barnstable Registry of Deeds.

407.7 Transfer Upon Sale:

407.7.1 Accessory Apartments created after the effective date of this bylaw:

1. The rights and requirements related to a lawfully developed accessory apartment created after the effective date of this bylaw shall transfer on sale of the property. New property owners shall provide an affidavit to the Building Commissioner per Section 407.5 within 45 days of the sale.

407.7.2 Family-Related Accessory Apartments: The following shall govern the transfer of ownership of Family Related Accessory Apartments in existence prior to the effective date of this bylaw:

1. The Special Permit for a family-related accessory apartment shall terminate upon the sale of the property or transfer of title to the dwelling unless the new owner(s) record a new Declaration of Covenants at the Barnstable County Registry of Deeds at the time of transfer or within 45 days of the sale, agreeing to abide by the prior restrictions of the Special Permit. The new Declaration of Covenants must contain the endorsement of the Building Commissioner that the family-related accessory apartment and the tenant continue to conform to eligibility requirements. The new Declaration of Covenants shall state that the right to use

a family-related accessory apartment may cease upon transfer of title. A copy of the recorded Declaration of Covenants shall be provided to the Board of Appeals, the Building Department and the Board of Health.

2. If no action is taken by the new owner(s) at the time of transfer or within 45 days of the sale, then the new owner(s) must apply for re-approval of the Special Permit by the Board of Appeals, or complete the conversion of the unit per Section 407.6.
3. The requirements of Section 407.5 - Records and Inspections, shall apply to existing family-related accessory apartments.

407.7.3 Affordable Accessory Apartments: The transfer of affordable accessory apartments shall, in all respects, comply with any provisions of the affordable housing restriction encumbering the same. Additionally, the following shall govern the transfer of ownership of Affordable Accessory Apartments in existence prior to the effective date of this bylaw:

1. The Special Permit for an affordable accessory apartment shall terminate upon the sale of the property or transfer of title to the dwelling unless the new owner(s) files on the subject property a new Declaration of Covenants and, as may be necessary, an Affordable Housing Restriction at the Barnstable County Registry of Deeds at the time of transfer or within 45 days of the sale, agreeing to abide by the prior restrictions of the Special Permit and any existing affordable housing restrictions, as may be applicable. In the event a new affordable housing restriction is to be executed and recorded, the following provisions shall apply:
  - a. Maximum rents permitted: Affordable accessory apartments shall be rented only to low-income households for periods not less than one year. Maximum rent paid shall be equal to no more than 30% of the theoretical income of a household in the Barnstable-Yarmouth Metropolitan Statistical Area (MSA) earning 70% of the Area Median Income (AMI), as published annually by the U.S. Department of Housing and Urban Development (HUD).
  - b. Guidelines for income eligibility: All applicants for occupancy of an affordable accessory apartment shall, at the time of initial rental application, submit to the town, or to the town's agent, all necessary documentation to confirm their eligibility for the unit. Eligible low-income households shall have an income of no more than 80% of the current Area Median Income (AMI) in the Barnstable-Yarmouth Metropolitan Statistical Area (MSA) and assets meeting program guidelines.
  - c. All affordable housing restrictions shall be in a form approved by the Town and Town Counsel.
2. The new Declaration of Covenants must contain the endorsement of the Building Commissioner and the Town's delegated affordable housing inspector that the affordable accessory apartment and the tenant continue to conform to eligibility requirements. A copy of the recorded Declaration of Covenants shall be provided to the Board of Appeals, the Building Department and the Board of Health.

3. If no action is taken by the new owner(s) at the time of transfer or within 45 days of the sale, then the new owner(s) must apply for re-approval of the Special Permit by the Board of Appeals, or complete the conversion of the unit per Section 407.6.
4. The requirements of Section 407.5 - Records and Inspections, shall apply to existing affordable accessory apartments.

DRAFT

USE TABLE:

202.5 Use Regulation Table	Res	RS-40	B1 <sup>21</sup>	B2 <sup>21</sup>	B3 <sup>21</sup>	RMDOD <sup>44</sup>	MU	APD	AED	MOD	HMOD 1	HMOD 2	VC 1	VC 2	VC 3	VC 4
<b>A. RESIDENTIAL</b>																
A10 Accessory apartments	BA <sup>55</sup>	BA <sup>55</sup>	BA <sup>55</sup>	BA <sup>55</sup>	no	no	no	BA	no	BA <sup>55</sup>	no	no	no	no	no	no

Notes:

55. Except “Yes” for Accessory Apartments meeting the requirements of Section 407.4 – Permit Procedure and Requirements

DEFINITIONS:

**AFFORDABLE ACCESSORY APARTMENT** – A secondary, separate housekeeping unit of limited size, with its own sleeping, cooking and sanitary facilities, located within, attached to, or adjacent to a primary single-family dwelling unit. An affordable accessory apartment shall have deed restrictions that hold rent to affordable housing guidelines set by the Town.

**FAMILY-RELATED ACCESSORY APARTMENT** – a secondary, separate housekeeping unit of limited size, with its own sleeping, cooking and sanitary facilities, which is located within, attached to, or adjacent to a primary single-family dwelling unit. A family member shall be related to the owner(s) by blood, marriage or law, or other long-term family-like relationship that is care giving or parental in nature.

**ACCESSORY APARTMENT** – A secondary, separate housekeeping unit of limited size, with its own sleeping, cooking and sanitary facilities, located within, attached to, or adjacent to a primary single-family dwelling unit.

**TOWN OF YARMOUTH ZONING BYLAW**  
**SEASONAL EMPLOYEE HOUSING AT MOTELS/HOTELS**  
**Effective 4/26/22**

**404.5 Seasonal Employee Housing at Motels/Hotels**

404.5.1 Purpose: The purpose of this bylaw is to provide standards to ensure safe and adequate housing at motels/hotels for temporary seasonal employees of Yarmouth businesses.

404.5.2 Applicability: The Building Commissioner may approve, through annual application and permit, Seasonal Employee Housing units at currently licensed motels/hotels in accordance with the provisions outlined herein. If an Applicant cannot meet all the provisions outlined herein as determined by the Building Commissioner, a Special Permit from the Zoning Board of Appeals is required.

404.5.3 Operational Standards for Seasonal Employee Housing at Motel/Hotels: Accommodations for Seasonal Employee Housing at Motels/Hotels shall have the following features:

1. A Seasonal Employee is considered to be an employee that is employed in Yarmouth for no more than seven (7) months between April 1<sup>st</sup> and October 31<sup>st</sup> annually.
2. Seasonal employee housing shall be for no more than seven months between April 1st and October 31st annually.
3. Seasonal employees shall be housed in motel/hotel rooms only. Seasonal employees may not be housed in camp sites, tents, RVs, mobile homes or campers located on the motel/hotel property or timeshare units.
4. Seasonal employee housing shall meet all local and state regulations, including but not limited to building and fire codes, health codes, water supply and wastewater disposal.
5. Maximum occupancy rate of each unit to be determined per the Health Codes.
6. Seasonal Employee housing shall be used solely by employees and shall not include family members of employees, or other non-employees.
7. The property owner or manager shall designate an on-site proctor for each property utilized as employee housing. The on-site proctor shall ensure that all seasonal employees are apprised of the rules and code of behavior prior to occupancy. The name and contact information for the on-site proctor shall be submitted to the Yarmouth Police Department and Building Commissioner.
8. All employees shall have access to cooking facilities, which shall include at a minimum a microwave, sink, cooktop and refrigerator /freezer.
9. No more than 15% of any hotel or motel rooms at a single parcel may be used for employee housing (fractions shall be rounded to the nearest whole number). Each room used for employee housing shall be identified on a

- locus map of the site and submitted to the Building Commissioner, Board of Health and Yarmouth Police Department.
10. All employees must be able to demonstrate that they maintain a principal place of residence elsewhere.
  11. The property owner or manager shall keep records of all employees utilizing employee housing, including name, permanent address, length of stay, and place(s) of employment with contact information. All documentation to be provided upon request.
  12. The permit issued by the Building Commissioner shall be valid for one year only.

**DEFINITIONS:**

**SEASONAL EMPLOYEE HOUSING at Motels/Hotels** – A currently licensed motel or hotel property, a portion of which is utilized to provide temporary seasonal housing for employees or staff, 18 years or older, who are seasonally employed by a business located within the borders of Yarmouth for more than 24 hours per week. All Seasonal Employee Housing at Motels/Hotels shall be conducted in accordance with the definitions, requirements and provisions of Section 404.5 – Seasonal Employee Housing at Motels/Hotels.