

**Town of Yarmouth
MINUTES OF THE PLANNING BOARD MEETING OF
April 19, 2023**

The Yarmouth Planning Board held a Hybrid in-person/remote access Business Meeting at **5:30** p.m. on Wednesday **April 19, 2023** in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

Planning Board Present: Susan Brita, Joanne Crowley, Will Rubenstein, Ken Smith, and Peter Slovak

Planning Board Absent: Jim Saben and Chris Vincent

Staff Present: Kathy Williams, Town Planner.

1. **Meeting Opening:** Chair Joanne Crowley opened the hybrid meeting at 5:32 PM. Planning Board members were all in-person. All votes were roll call votes.
2. **Approval Not Required ANR Plan #2938:** **Applicants/Owners:** Peter W. Acheson, David C. Acheson & Eleanor D. Acheson. **Property Location:** Unnumbered lot off Pleasant Street, South Yarmouth MA, Assessor Map 51, Parcel 91, RS-40 Zoning District. The ANR divides an unbuildable lot into three unbuildable lots for conveyance of a portion to abutting properties.

Dan Ojala of Down Cape Engineering briefly explained the division of the existing unbuildable lot owned by the Acheson family members into three unbuildable lots, Parcels 4-A, 4-B and 4-C, for conveyance purposes to abutting properties. Parcel 4-A will remain the 30' private access, Parcel 4-B (footpath) will be conveyed to the adjacent 170 Pleasant Street and Parcel 4-C (beach area) will be conveyed to the adjacent 162B Pleasant Street. Dan Ojala noted that no other properties have rights to the footpath/beach area.

VOTE: On a motion by Susan Brita, and seconded by Will Rubenstein, the Planning Board voted (5-0) to endorse ANR Plan #2938 prepared by Down Cape Engineering and dated March 31, 2023, with Joanne Crowley, Ken Smith, Peter Slovak, Susan Brita, and Will Rubenstein voting in favor.

3. **Release from Planning Board Agreement – 1 Algonquin:** Release 1 Algonquin, West Yarmouth, Assessor Map 20, Parcel 6, from a 1959 Agreement between the Planning Board and the Brookline Federal Savings and Loan Association, recorded at the Barnstable Registry of Deed as Document No 61808.

Town Planner Kathy Williams went over the attached original 1959 Agreement, Land Court Plans 19724D, I & K, and the Deed for 1 Algonquin. The Deed references a Planning Board Agreement from 1959 which was for Planning Board Subdivision #1193RS/Land Court Plan 19724I. However, 1 Algonquin was created as Lot 72 in Planning Board Subdivision #1887/Land Court Plan 19724K. Lot 72 was released from the 1887 Agreement. As the deed for the property specifically references the Agreement for #1193RS it is impacting the title and conveyance of the property and attorneys for the owner have requested the Planning Board issue the attached release from the Agreement. Ms. Williams noted the Agreement did not specifically apply to the lot in question, the roads have all been long constructed, and the release is needed to clear the title.

VOTE: On a motion by Susan Brita, and seconded by Will Rubenstein, the Planning Board voted (5-0) to release 1 Algonquin Street, West Yarmouth, shown as Lot 72 in Land court Plan 19724-K, from the July 25, 1959 Agreement between the Yarmouth Planning Board

and Brookline Federal Savings and Loan Association, recorded with the Land Court Division of the Barnstable Registry of Deeds as Document No. 61808, with Joanne Crowley, Ken Smith, Peter Slovak, Susan Brita, and Will Rubenstein voting in favor.

4. **Accessory Apartment Bylaw Amendments**: Continued discussion on zoning amendments related to Accessory Apartments/Accessory Dwelling Units (ADUs).

Joanne Crowley noted the attached Draft #10 of the Accessory Apartment amendments, input from the Health Director and calendar for public Listening Sessions in June in the meeting packet. Kathy Williams reviewed Draft #10 which included edits from Town Counsel and input from the April 5th Planning Board meeting. The Board discussed parking buffers and decided the buffer to new parking created for accessory apartments should be 10' from the *side and rear property lines*. Staff is awaiting input from Town Counsel regarding minor wording highlighted in Section 407.7.3. Kathy Williams reviewed the supporting email from the Health Department, noted positive input from the Building Department on the latest draft, and staff still coordinating with the DPW on any comments they may have.

Kathy Williams reviewed the attached schedule for the Listening Sessions on June 7th, June 14th and June 26 to be located at Town Hall, Senior Center and Fire Station #2, respectively. Ms. Williams outlined the publicity plan. Board members requested a meeting with the Board of Selectmen (BOS) to give them an update on the proposed amendments and obtain input from the BOS at their June 6th meeting.

Joanne Crowley requested that each person give a brief overview of their thoughts on the current draft of the amendments. All Board members noted the amount of thought and compromise that had gone into the current draft.

- a. **Susan Brita**: Ms. Brita noted she had no issue with removing the restrictions on who can live in an accessory apartment or allowing for 2-bedrooms and thought the 10,000 sf for 1-bedroom and 15,000 for 2-bedroom units was workable. Her main issue was that she felt all accessory apartments should be by Special Permit with abutter notification. She also expressed some concerns regarding transfer of accessory apartments upon sale.
- b. **Will Rubenstein**: Mr. Rubenstein noted the progress made, his interest in lessening restrictions to get more people to build accessory apartments, was okay with the Special Permit exceptions to allow for some apartments by-right, and was looking forward to hearing from the public and is hoping for a large turnout.
- c. **Peter Slovak**: Mr. Slovak is a new Board member and offered his three main concerns - the minimum lot size, allowing for more than 1-bedroom and allowing some by-right approvals. Mr. Slovak noted the high density now in many neighborhoods, feels a 2-bedroom accessory apartment is more akin to a two-family on a single lot, and feels abutters should be able to voice their concerns. He expressed concerns about more cars, traffic, dogs, and storage of campers/boats.
- d. **Ken Smith**: Mr. Smith also noted he was not on the Board at the beginning of the process and has been working to get a better understanding of the issues. He still favors some by-right alternatives.
- e. **Joanne Crowley**: Ms. Crowley gave a brief overview of how the process was initiated by a Petitioned Article which was all by-right with few limitations. Input from the formal Public Hearing identified issues and the petitioner withdrew their article to allow for more deliberations to build consensus which pushed the Accessory Apartments to the forefront of the Board's agenda. Ms. Crowley did note that she had concerns about allowing for more than a 1-bedroom primarily related to wastewater issues but also that the apartments should be *accessory* to the main use.

Ms. Crowley noted that Board members not present at this meeting will have the opportunity to provide their viewpoints at the next meeting.

5. **Committee Re-Assignments:** Discussion on potential reassignment of some Committee assignments with the addition of a seventh planning board member.

Kathy Williams relayed a conversation with Jim Saben regarding his interest in serving on the Community Housing Committee. Peter Slovak had expressed interest in serving on the Community & Economic Development Committee.

VOTE: On a motion by Susan Brita, and seconded by Will Rubenstein, the Planning Board voted (5-0) to assign Jim Saben to the Community Housing Committee (CHC) and Peter Slovak to the Community & Economic Development Committee (CEDC) as the Planning Board representatives, with Susan Brita, Joanne Crowley, Ken Smith, Peter Slovak and Will Rubenstein voting in favor.

3. **Meeting Minutes:**

a. **April 5, 2023:** On a motion by Susan Brita, and seconded by Ken Smith, the Planning Board voted (5-0) to approve the meeting minutes of April 5, 2023, with Susan Brita, Joanne Crowley, Ken Smith, Peter Slovak and Will Rubenstein voting in favor.

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

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

- a. **Water Resources Advisory Committee (WRAC):** Ken Smith indicated the bids for Contract #2 and #3 have been received and the consultants are 60% complete with the Water Resource Reclamation Facility design. He emphasized the importance of the funding requests on the Annual Town Meeting (ATM) warrant and encouraged people to attend.
- b. **Open Space & Recreation Plan Ad-Hoc Committee:** Kathy Williams noted that the Committee is working on finalizing the 2nd survey of objectives and action items which will go out at the end of April/start of May.
- c. **Drive-In Site Utilization Committee (DISUC):** Kathy Williams noted that the DISUC met in March to discuss the possibility of donations and naming rights to raise funds for the Riverwalk Park. Discussions with the Board of Selectmen are needed. Ms. Williams also noted a number of Articles on the ATM warrant for funding for the project.

6. **Board Member Items:** None.

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

8. **Staff Updates:** None.

9. **Upcoming Meetings:**

- a. May 3, 2023
b. May 17, 2023

10. **Adjournment:** VOTE: On a motion by Ken Smith, seconded by Will Rubenstein, the Planning Board voted unanimously (5-0) to adjourn at 7:46 PM.

ATTACHMENTS:

- April 19, 2023 Agenda
- ANR Plan 2938: April 12, 2023 Planner Memo, Form A and ANR Plan 2938

- **Release of 1 Algonquin from Planning Board Agreement:** Draft Agreement Release, original 1959 Agreement, Land Court Plans 19724 D, I & K, and the Deed for 1 Algonquin
- **Accessory Apartments:** Draft #10 dated April 11, 2023, comments from the Health Director, and outline of Listening Session dates/locations.
- **Committee Assignments:** Updated list of existing committee assignments and vacancies
- **Meeting Minutes:** April 5, 2023
- **Miscellaneous Correspondence:**
 - Conservation Commission Agenda for 4/20/23
 - ZBA Decisions 4990 & 4999

Approved on May 3, 2023:

On a motion by Susan Brita, and seconded by Ken Smith, the Planning Board voted (5-0-1) to approve the meeting minutes of April 19, 2023, with Susan Brita, Joanne Crowley, Ken Smith, Peter Slovak and Will Rubenstein voting in favor, and Jim Saben abstaining.