

**Town of Yarmouth**  
**MINUTES OF THE PLANNING BOARD MEETING OF**  
**July 7, 2021**

The Yarmouth Planning Board held an in-person Business Meeting at **5:30** p.m. on Wednesday **July 7, 2021** in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

**Planning Board Present:** Brad Goodwin, Joanne Crowley, Tom Baron, Liz Hartsgrove, and Will Rubenstein

**Planning Board Absent:** Chris Vincent and Susan Brita

**Staff Present:** Kathy Williams, Town Planner

**Guests:** Tom Nickinello, and Mary Vilbon - Yarmouth Chamber of Commerce

1. **Potential Zoning Amendments:** Discussion on potential zoning amendments for the fall Special Town Meeting (date to be determined).

Joanne Crowley gave an overview for the meeting to obtain input on potential zoning amendments for the fall, noting the limited time frame available to complete the Articles, have the formal Public Hearing and meet with the Finance Committee and the Board of Selectmen.

Kathy Williams gave the attached PowerPoint presentation which summarized the ten potential zoning amendments for discussion as outlined in the attached July 1, 2021 Planner Memo. As time is limited, not all of the amendments are possible, and input from the Board is needed to determine which items would proceed to drafts for the next meeting.

- a. **National Flood Insurance Program (NFIP):** In order to maintain eligibility in the NFIP, Yarmouth needs to adopt additional requirements within the Zoning Bylaw, mainly in Section 403 – Flood Area Provisions, along with additional Definitions. This needs to be done at the fall town meeting.

After a brief discussion, the Board concurred with moving forward with these edits at the fall STM.

- b. **Zoning Map and Bylaw Conflict:** There is a conflict between the existing zoning boundaries shown on the Zoning Map and the written word within the Zoning Bylaw for the rear boundaries of the B1 and B2 zoning districts. The Zoning Bylaw defines B1/B2 rear boundary lines based on those in effect as of 1946/1971, respectively, but not to exceed 1,200 feet in depth. However, when format changes were made to the Zoning Map in 2001 (no boundary changes), the rear boundary lines of all lots in 2001 Map do not appear to be the rear property line of these boundaries in 1946/1971. Town Counsel indicated that the Zoning Map has a presumption of validity, but that the language in the Zoning Bylaw should be amended to address this conflict as soon as possible.

After the presentation and a brief discussion, the Board concurred that the Zoning Bylaw language should be corrected to be reflective of the district limits shown on the Zoning Map.

- c. **Rezoning of Lots:** Three potential parcels were discussed for possible rezoning, 121 & 125 Route 6a, and 17 Berry Avenue (see attached maps). These parcels came to the attention of the Planning Division by attorneys/realtors, but no formal requests or contacts have been made with the property owners as of yet.

- 121 & 125 Route 6A: Discussed the rezoning of the rear of these two parcels from R40 to B1. The rear area is currently used as parking for the Cape Cod Cooperative Bank and the vacant Dennis Partners building (former Bank of America building). Rezoning of these mixed zone parcels to all B1 facilitates improvements and redevelopment of the parcels.
- 17 Berry Ave (30.222): Located behind the Keltic Kitchen and a vacant lot at the corner (11 Berry Avenue) and across from the 99 Restaurant, the wooded lot is one back from Route 28 and is currently zoned R25. Rezoning of this property may help to combine with the vacant lot on the corner to promote development.

The Board discussion included concerns about rezoning parcels without more public input, creation of larger commercial lots along historic Route 6a, impacts to abutters, the benefits to redevelopment by cleaning up mixed zoned lots, and improving the odds of development at the corner of Berry Ave and Route 28 with the inclusion of the adjacent lot in the B2 zoning district.

After discussion, the Board requested that staff contact the property owners and solicit their interest in rezoning their properties.

- d. **Top of Shop Housing**: The current bylaw allows for Employee Housing at Non-Motels in the B2 zoning district per Note 47 and the Definition which defines density and need for the property to be owned by the employer and utilized for housing for employees or staff. This provision has not been utilized and may be related to the strict employer/employee requirement. The Board discussed loosening this restriction to create more year round housing, such as top of shop housing while maintaining the low density with one unit/minimum lots size and a maximum of 4 (would require 80,000 sf lot).

Public Comments: Tom Nickinello noted that top of shop could help with many people needing places to live and would provide opportunities for land owners to maximize use of their property. Mary Vilbon noted that although this modification would address year round worker housing, the Board needs to look at seasonal housing which is the biggest issue to employers, especially as many second homes are less available for rental as they have been in the past.

The Planning Board discussed how the modifications would be included in the bylaw, expanding the option to more than just top of shop (allow for ground level units), ensuring adequate parking, concerns about how this amendment might be viewed by the public, and the oversight of the tenants. The Board also discussed some criteria including making it year round, minimum size of 300 sf, parking at 2 spaces/unit, and retaining the low density with maximum of 4. The Board also discussed meeting with the Community Housing Committee (CHC) to garner their input.

After discussion, the Board requested that staff proceed with drafting of zoning amendments taking into consideration their comments above.

- e. **Food Trucks**: The Board discussed food trucks, which are currently viewed as Restaurants in the B1 & B2 zoning districts without any specific guidelines regarding location, signage, pedestrian safety, awnings, picnic tables, parking, etc.

Public Comment: Mary Vilbon noted the original discussion started due to the inability to get someone to run the concession stands at the beaches and the idea of using food trucks to fill this gap. However, food trucks are not allowed in residential districts, except for those as part of a special event on town-land. She noted that the Chamber would be putting out a Request for Proposal (RFP) for the Route 6 rest area and indicated there had been some safety and aesthetic issues last year that will be addressed in the RFP.

Tom Nickinello noted that food trucks are the way to go, other towns are doing it successfully and allows for lower overhead to start a business.

The Board discussed the various options for food trucks for roaming and stationary; discussed allowing them on town land through the Use of Town-Owned Land application through the Board of Selectmen; noted a good potential location near the Cape Cod Rail Trail; and the level of support for food trucks from the Board of Selectmen

The Planning Board was interested in moving forward with amendments to support Food Trucks. Staff will meet with Mary Vilbon to discuss her experiences at Route 6, with the Health Department to get a better handle on the issues, and research what other towns are doing for food truck regulations.

- f. **Village Centers Overlay District (VCOD)**: The Board discussed the potential for expanding the relief that would be available through Special Permit rather than a Variance, and the VCOD sidewalk requirement along Route 28.

After discussion, and understanding the limited time available, the Board decided not to move forward with any amendments to the VCOD for the fall STM. The Board was interested in looking at a more holistic review of the VCOD bylaw in the hopes of simplifying the process and requirements.

- g. **Section 303 - Signs**: The Board discussed the sign bylaw section allowing for some relief to be given via Special Permit rather than Variance and recent determinations made by the Zoning Board of Appeals relief. The Board also discussed a minor clarification to limit the maximum height for business center signs to 12'.

After discussion, the Board was looking for further input from the Zoning Board of Appeals as to potential clarifications to the Special Permit versus Variance language.

- h. **Solar Canopies over Parking Lots**: The Board discussed the potential issue of solar canopies over parking lots located in the front of buildings along Route 28. For zoning purposes, solar canopies are designated as structures and only need to meet the building setback requirements. This may be a concern due to the large amount of existing parking located in the front of buildings along Route 28 and some commercial parking lots with no structures and the Board's desire to improve the aesthetics along Route 28.

After discussion, and understanding the limited time available, the Board decided not to move forward with any amendments related to solar canopies over parking lots for the fall STM.

- i. **Boat Storage**: There has been renewed interest via a petitioned article to revisit reducing the restrictions related to where boats can be stored on residential properties. Currently, boat storage is allowed if located behind the front face of the building. In 2019 the Board looked at allowing for one lawfully registered boat regardless of location relating to the building if it does not create a traffic or fire safety issue and adequate on-site parking remains for the property. The amendment was ultimately withdrawn prior to Town Meeting after comments received from the Finance Committee and the Board of Selectmen.

**Public Comments**: Tom Nickinello noted that people come for the water and boating is important, and noted the backlog for boat slips.

The Planning Board inquired about how big a problem boat storage is with regard to the number of violations/complaints and locations throughout town.

After discussion, and understanding the limited time available, the Board decided not to move forward with any amendments related to boat storage in residential areas for the fall STM.

- j. **Micro-Brews & Kitchen Cooperatives:** Some interest has been expressed to having micro-breweries and commercial kitchens on Route 28. The current bylaw put these types of uses under manufacturing which is not allowed in the B2 Business District. Although this is beyond something that can be addressed at fall town meeting, the Board had a general discussion and appeared interested in the possibility of modest or light manufacturing on Route 28 and it is something to keep in mind for future amendments.
  - k. **Other:** At the end of the meeting, Tom Nickinello brought up providing more opportunities for businesses through allowing body art/tattoo shops along Route 28, as these have become more mainstream in recent years. He noted the existing limitations on the number of package stores and tobacco licenses which are limiting businesses. Staff will look at what is involved with rezoning body art establishments.
2. **Cape Cod Commission (CCC) Development of Regional Impact (DRI) Review:** Continued discussion and possible comment letter to the CCC on supplemental information provided on the DRI Application by Blue Sky Towers III, LLC, for a 120' monopole wireless communication tower and ground equipment to be located at 1044 Route 28, South Yarmouth, Assessor Map 50, Parcel 189.1.  
  
Kathy Williams indicated that the DRI Applicant did not submit supplemental materials until July 6<sup>th</sup> and the Commission will be continuing the hearing to early August. The will provide staff time to review the submitted materials in preparation for discussion by the Board at their July 21<sup>st</sup> meeting.
  3. **Community Visioning Presentation:** Kathy Williams gave a brief update on the status of the 2<sup>nd</sup> Visioning Survey and upcoming publicity including a feature article in the Register, a code red call along with additional outreach.
  4. **Meeting Minutes:**
    - a. **June 16, 2021:** On a motion by Tom Baron, and seconded by Will Rubenstein, the Planning Board voted (4-0) to approve the meeting minutes of June 16, 2021, with Joanne Crowley, Will Rubenstein, Liz Hartsgrove, and Tom Baron voting in favor.
  5. **Board of Appeals Agenda & Decisions:** The attached ZBA Agenda was sent to the Planning Board via e-mail.
  6. **Committee Updates from Board Members:**
    - a. **Water Resources Advisory Committee (WRAC):** Tom Baron noted that the WRAC voted at their last meeting to go with a Yarmouth Wastewater Treatment Facility option and present to the Board of Selectmen, due to delays and recent developments related to the Dennis/Harwich/Yarmouth (DHY) Partnership.
  7. **Board Member Items:** None.
  8. **Correspondence:** Attachments noted below were sent to the Planning Board via e-mail.
  9. **Staff Updates:** Kathy Williams noted the execution of the contract for the design/permitting and bidding of the Riverwalk Park, Boardwalk Loop and Event Space with consultant BETA. There was a recent article in the Cape Cod Times on the project and Kathy Williams will also be doing a radio interview on the project.

**10. Upcoming Meetings:**

- a. July 21, 2021
- b. August 4, 2021

**11. Adjournment: VOTE: On a motion by Liz Hartsgrove, seconded by Will Rubenstein, the Planning Board voted unanimously (4-0) to adjourn at 7:46 PM.**

(Brad Goodwin left the meeting at 7:20 PM)

**ATTACHMENTS:**

- **July 7, 2021 Agenda**
- **Potential Zoning Amendments:** July 1, 2021 Memo from Planner with attached maps, 11/28/18 Memo from the Building Commissioner and PowerPoint presentation
- **Draft Meeting Minutes:** June 16, 2021
- **Miscellaneous Correspondence:**
  - ZBA Agenda for July 8, 2021
  - Conservation Commission Agenda for July 1, 2021
  - Cape Cod Canal Area Transportation Improvement Program – Virtual Public Information Meeting announcement

**Approved on August 4, 2021:**

**On a motion by Tom Baron, and seconded by Liz Hartsgrove, the Planning Board voted (4-0-2) to approve the meeting minutes of July 7, 2021, with Joanne Crowley, Brad Goodwin, Liz Hartsgrove, and Tom Baron voting in favor, and Chris Vincent and Susan Brita abstaining.**