

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

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The Yarmouth Planning Board held a Hybrid in-person/remote access Business Meeting at **5:30** p.m. on Wednesday **July 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, Ken Smith, and Will Rubenstein

**Planning Board Absent:** Jim Saben, Chris Vincent and Peter Slovak

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

**Applicant Representatives:** Dan Ojala, Down Cape Engineering; Marian Rose, Singer & Singer; John Bologna, Coastal Engineering; Lance Walker, WATG; and Hollie Handrahan, Red Jacket Beach Resort Manager.

**Guests:** See attached sign-in sheet and list of remote participants

1. **Meeting Opening:** Chair Joanne Crowley opened the hybrid meeting at 5:33. All Planning Board members were in-person, except for Will Rubenstein. All votes were roll call votes.
2. **Recognition of Brad Goodwin's 30-Years of Service to the Planning Board:** The Planning Board and Chair Joanne Crowley expressed their appreciation for Brad's outstanding service to the Planning Board and its members and noted some of the accomplishments and projects tackled over the years. The Chair presented Mr. Goodwin with a plaque denoting his long service and contributions to the Planning Board.
3. **Approval Not Required ANR Plan #1782E:** Andrew Laird, 181 & 185 South Sea Ave, West Yarmouth, Assessor Map 17, Parcels 95.1 & 101.1, R25 Zoning District. The ANR Plan adjusts the lot line between two parcels by creating an unbuildable lot for conveyance purposes.  
  
Dan Ojala gave a brief presentation noting the creation of a non-buildable lot for conveyance from one parcel to another. Without any discussion, the Planning Board voted as follows:  
  
**VOTE: On a motion by Susan Brita, and seconded by Ken Smith, the Planning Board voted (4-0) to endorse ANR Plan #1782E prepared by Down Cape Engineering and dated July 13, 2023.**
4. **PUBLIC HEARING - Design Review and Special Permit 118:** R.J. Resorts Beach Resort Owner, LLC (Red Jacket Beach Resort); 28 South Shore Drive, South Yarmouth; Assessor Map 19, Parcel 20.1; Zoning Districts R25 and HMOD2. The Applicant seeks to redevelop a portion of their hotel property using Zoning Bylaw Section 404.2 – Hotel/ Motel Overlay District 2 (HMOD2). Per Zoning Bylaw Section 404.2, the Applicant is seeking Design Review Approval to replace the existing outdoor pool and deck area with a reconfigured larger pool, spa, deck, cabanas and fencing; replace the existing temporary bar tent structure with a new permanent open-air pavilion and trellised area with bar, seating and fireplace; enlarge the existing interior pump room; add two unisex restrooms within the existing building with exterior doors; install one exterior shower; upgrade landscape plantings in pool area, the adjacent event lawn, at the Resort entrance and at the existing porte-cochere/lobby entrance, add trees in the existing parking lot islands, augment shrubs in north-west buffer area, and replace existing landscape plantings with native plantings for environmental mitigation; add two new crosswalks; and redesign/upgrade existing required handicapped parking spaces and accessible routes. The Applicant is also seeking a Special Permit for relief from Section 404.2.6 of the Zoning Bylaw for the project defined above for the existing site conditions and existing buildings which do not comply with the Yarmouth Architectural and Site Design Standards.

- a. **Hearing Opening & Public Hearing Notice:** Joanne Crowley, Planning Board Chair, read into the record the attached public hearing notice which was published in the Cape Cod Times on July 3, 2023 and July 10, 2023 and mailed to abutters. The public hearing was opened at 5:50 PM.

Ms. Crowley indicated there are only four (4) Planning Board members present at the meeting this evening and a minimum of five are needed for voting purposes. The Board will open the Hearing and move forward with the presentation and public comment, but the Hearing will need to be continued to the next Planning Board meeting on August 2<sup>nd</sup> and members not present will be required to certify review of the video for this evening prior to being eligible to vote on this matter.

- b. **Presentation:** Marian Rose of Singer & Singer began the presentation noting the project is here for HMOD2 Design Review and Special Permit relief and reviewed the existing conditions and proposed work as described in the hearing notice, application materials and supplemental renderings. She indicated this is the first major investment in the property since it came under new ownership in 2021. Other presentation topics included:

- The goal is to have the project permitted to start construction in October and have it completed during the off-season.
- One potential modification would be to utilize a softer stone on the fireplace rather than the brick proposed in the application materials. They showed an example of a similar stone which was included in the attached renderings.
- The Conservation Commission has approved the project and there are substantial mitigation plantings along with dune restoration.
- Discussed the buffers and difficulty of expanding the width of the buffers for trees in the northwest parking area as it would impact the parking. The Applicant is proposing to improve this buffer area with shrub plantings in front of the existing fence.
- Ms. Rose indicated she had discussions with the abutting Gateway Isles president who indicated they would like to continue to have access through the property to the beach, had issues with the early Sunday morning trash collection and with some of the lighting being directed off-site.
- Ms. Rose reviewed the Special Permit granting criteria and the request for relief from the Architectural & Site Design Standards for the existing buildings and existing site conditions. She reviewed the findings outlined in the July 14<sup>th</sup> Planner Memo and also noted the high ratio of mitigation and addition of accessible rooms within the hotel.

- c. **Staff Report:** Kathy Williams briefly reviewed the attached July 14, 2023 Planner Report noting that much of the information contained in the report has already been discussed. She highlighted that the Planning Board is the Design Review Authority for HMOD2 projects, and they need to review the entire property for compliance with the Architectural & Site Design Standards. Where full compliance is not being provided, relief would need to be granted via a Special Permit from the Planning Board. She directed the Planning Board members to the Draft Design Review Comment Sheet contained within the packet which also includes a suggested draft motion, along with the Special Permit findings and suggested draft motion.

- d. **Written Comments Received:** None received.

- e. **Planning Board Members Initial Comments:**

- **Susan Brita:** Ms. Brita inquired about the use of the lawn area, potential for noise, point of contact at the resort, desire to create a year-round destination and desire to camouflage the existing fencing with buffer plantings. Holly Handrahan, Resort Manager, noted that there may be some group or cocktail receptions on the lawn, but they go inside for wedding

receptions. Marian Rose noted that she would be the contact for questions related to this application, with the resort manager for operational questions. Ms. Rose noted that buffer plantings in the northeast parking area by Barkentine Road are not currently in the plans.

- Ken Smith: Ken Smith noted his familiarity with the property and inquired as to whether the proposed work would impact leaching fields north of the existing pool which will need to remain operational until the property connects to the proposed municipal sewer system sometime in 2026. John Bologna indicated they had accommodated the future connection into the municipal system and will look into the existing fields. Ken Smith noted the project was a vast improvement and inquired as to whether the planting islands in the parking lot are irrigated. Lance Walker indicated they should be irrigated for longevity of the new plantings/trees.
- Will Rubenstein: Mr. Rubenstein noted it was a lovely concept and he had no questions at this time and would like to hear from any neighbors.
- Joanne Crowley: Ms. Crowley inquired as to the limitations of the pool work and what materials would be removed and could they be recycled. Lance Walker indicated the pool work is essentially within the "U" shape of the hotel building and existing materials would involve mainly concrete and stamped asphalt and could look into recycling/reuse of the materials. Ms. Crowley also inquired as to any conditions imposed by the Conservation Commission. John Bologna noted there were general conditions involving notifications and erosion control with specific conditions related to the mitigation component, dune enhancement, and time of year restrictions due to plovers.

f. **Public Comments:**

- Elizabeth Tyminski (remote) and Michael Kelley, 35 South Shore Drive: Ms. Tyminski inquired about specific contact information and how South Shore Drive will be impacted during Construction. Marian Rose indicated she would give Michael Kelley her card at the end of the meeting. Ms. Rose noted there would be increased traffic during construction starting in October and proceeding to Memorial Day with hours of construction limited to generally between 7:30-5. Ms. Tyminski noted that Hollie Handrahan has been a good neighbor and Mr. Kelly was glad to see the investment and wished them luck with the project.

g. **Public Hearing Continuations:** Without enough Board members present to vote on the project, the hearing was continued as follows:

**VOTE: On a motion by Ken Smith, and seconded by Susan Brita, the Planning Board voted (4-0) to continue the Public Hearing for the R.J. Resorts Beach Resort Owner, LLC Design Review and Special Permit #118 to August 2, 2023 at 5:30 PM with Susan Brita, Joanne Crowley, Ken Smith and Will Rubenstein voting in favor.**

5. **Discussion on Workshop Meeting with Zoning Board of Appeals (ZBA):** Kathy Williams briefly reviewed the joint ZBA/Planning Board meeting which was attended by Planning Board members Joanne Crowley, Peter Slovak, Ken Smith and Jim Saben.

- a. **Accessory Apartment Zoning Amendments:** General discussion topics included keeping the current proposed parking at two (2) for the single-family home and two (2) for the accessory apartment, mixed views on allowing second homeowners to create accessory apartments, and discussion on who determines what the units look like related to neighborhood character. Although most members present felt all accessory apartments should be via Special Permit, there was some concern about the current heavy number of applications before the ZBA.
- b. **Seasonal Employee Housing at Motels/Hotels:** In general, the only concern for this section of the bylaw was allowing more than 15% seasonal employee housing at motels/hotels in the HMOD2 which has an underlying residential zoning district and keeping this to the B2

- business district. Other discussion topics included definition of motel guests, the ZBA being comfortable allowing for 2-year special permits after a 1-year permit where the ZBA can determine how well the motel was managed, and the ZBA felt no need to expand on the code of conduct. Ken Smith noted that he had done some research on guests and tenancy which is related to address and cannot just move a guest from one room to another on the same property.
- c. **Solar Canopies over parking lots:** The ZBA members expressed concern about 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. Chapter 40A prohibits unreasonable regulation related to solar, similar to schools, so would need to coordinate closely with Town Counsel on a bylaw.
  - d. **Other Items:** Other items mentioned that often come before the ZBA included signs (desire for larger sizes, more signs, murals/art, and electronic messages), EV charging stations (free charging with allowed electronic advertising) and single lot cottage communities (owners wanting to increase the size of these small cottages within this non-conforming use).
6. **Accessory Apartment Bylaw Amendments:** The Planning Board members present were the same members present on July 5<sup>th</sup> when the input from the Listening Sessions was discussed and the Accessory Apartment amendments were only briefly discussed. Joanne Crowley inquired as to whether we could loosen some of the parking requirements if require Special Permits for all accessory apartments to give the ZBA some flexibility rather than requiring a Variance. Susan Brita noted that there needed to be some clarification on the Transfer Upon Sale provisions and perhaps looking at the existing and proposed language side by side would be helpful.
7. **Meeting Minutes:**
- a. **July 5, 2023:** On a motion by Ken Smith, and seconded by Will Rubenstein, the Planning Board voted (4-0) to approve the meeting minutes of July 5, 2023, with Susan Brita, Joanne Crowley, Ken Smith and Will Rubenstein voting in favor.
8. **Board of Appeals Agenda & Decisions:** None.
9. **Committee Updates from Board Members:**
- a. **Water Resources Advisory Committee (WRAC):** Ken Smith indicated the municipal sewer system project is moving forward and is on schedule.
  - b. **Open Space & Recreation Plan (OSRP) Ad-Hoc Committee:** Kathy Williams noted the great work from Staff, Weston & Sampson and the Ad-Hoc Committee to prepare a Draft OSRP in time for submission of the PARC grant for the Riverwalk Park. The Draft OSRP will be coming before the Planning Board for review and support letter.
  - c. **Design Review Committee (DRC):** Kathy Williams also noted that the DRC met on July 18<sup>th</sup> to review a convenience store expansion at 601 Route 28 and to review the revised ROAD #2023-1 application for the J-Mart project at 1272-1282 Route 28.
10. **Board Member Items:** None.
11. **Correspondence:** The attached correspondence was sent to the Planning Board via e-mail.
12. **Staff Updates:** Kathy Williams gave a brief update on the status of the Local Comprehensive Plan (LCP) and hiring a consultant. Kathy Williams had previously informed the Planning Board that the Request for Proposals (RFP) resulted in no consultant proposal being submitted in June, which seems to be related to their heavy workload and staffing issues. Staff will be getting together to talk about some options including using a consultant from the on-call RFP process,

which is currently underway, breaking up the components amongst multiple consultants or re-issuing the original RFP with a revised schedule.

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13. **Upcoming Meetings**: The Planning Board reviewed upcoming meetings and business items.
- a. August 2, 2023:
  - b. August 16, 2023: ROAD Application 2023-1 Public Hearing for 1272-1282 Route 28.
  - c. September 6, 2023: Draft Open Space & Recreation Plan Presentation.
  - d. September 20, 2023: Zoning Amendments Public Hearing.
  - e. November 7, 2023: Fall Special Town Meeting – Kathy Williams to confirm date and no conflict with voting.
14. **Adjournment**: **VOTE: On a motion by Susan Brita, seconded by Ken Smith, the Planning Board voted unanimously (4-0) to adjourn at 7:20 PM.**

**ATTACHMENTS:**

- **July 19, 2023 Agenda**
- **Sign-In Sheet and List of Remote Participants**
- **ANR Plan 1782E**: July 14th Planner Memo with Application form and ANR Plan.
- **Design Review & Special Permit 118 – Red Jacket Beach Resort**: July 14th Planner Report, Hearing Notice, Aerial Map, Design Review and Special Permit Applications, SPR Comment Sheet, Design Review Committee (DRC) Comment Sheet, Architectural & Site Design Standards, DRAFT Design Review Comment Sheet, Project Plans and renderings.
- **Accessory Apartment Zoning Amendments**: June 30, 2023 Planner Memo
- **Draft Meeting Minutes**: July 5, 2023
- **Miscellaneous Correspondence**:
  - Conservation Commission Agenda for July 20, 2023
  - July 14, 2023 email with brief outline of results of 7/13/23 ZBA meeting

**Approved on August 2, 2023:**

**On a motion by Susan Brita, and seconded by Ken Smith, the Planning Board voted (3-0-2) to approve the meeting minutes of July 19, 2023, with Susan Brita, Ken Smith and Joanne Crowley voting in favor, and Chris Vincent and Peter Slovak abstaining.**