

## Town of Yarmouth

### MINUTES OF THE PLANNING BOARD MEETING OF July 25, 2012

The Yarmouth Planning Board held a business meeting at 5:30 p.m. on Wednesday, July 25, 2012 in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

**Members Present were:** Mr. Goodwin, Mr. Weare, Mr. Roche, Mr. DiPersio, Mr. Driscoll, & Mr. Vincent  
**Absent were:** None

**Board of Appeals Members Present were:** Steve DeYoung, Bob Palmer, Debbie Martin (arrived at 5:45). Dick Neitz was also present, but did not comment.

**Also present:** Kathy Williams, Planner; Karen Greene, Director of Community Development; Nate Kelly, Renie Hamman, Carlen Veara, Judy Still, Tom Nickinello, Bob Dubois and Dick Martin

Chairman Roche opened the meeting at 5:32 p.m.

#### 1. Review of Fifth Draft TCOD with Zoning Board of Appeals:

A brief summary of the draft TCOD Bylaw was presented by Tom Roche and Karen Greene utilizing the June 22, 2012 memo to the Board of Selectmen as an outline. Key points included:

- Four Districts with different purposes and form that vary in setbacks, density, building height, impervious coverage, and maximum tenant sizes. Districts 1, 3 & 4 are more mixed use, while District 2 is residential.
- The housing in the TCOD is inclusionary and the existing zoning requirements for affordable housing apply.
- The building heights vary by setback. Heights of up to 35' are allowed in the 0'-50' setback; and 48' beyond the 50' setback. In District 3 only, the building height may extend to 65' if there is a 350' setback from the road (100' from side/rear yards).
- Additional Uses are allowed in the TCOD.
- Reduced parking and the potential for shared parking. Limits are set on the maximum amount of parking.
- Input has been obtained from the Town Counsel and Building Commissioner.

Bob Palmer asked for more detailed information on the housing density allowed in each district. Karen Greene provided the following summary:

- District 1: 8 units/acre for residential use only and 16 units/acre for mixed use.
- District 2: 20 units/acre for residential use only or for mixed use.
- Districts 3 & 4: 10 units/acre for residential only and 20 units/acre for mixed use.

Steve DeYoung offered the following comments:

- Thanked the Planning Board for the invitation and indicated the board would want a lot of public involvement on the final Bylaw. The Bylaw is difficult to understand and would hate to see it denied because the public was unclear on what it entails.
- Expressed concerns that it appears that only one parcel benefits from the increased height criteria and questioned whether this was spot zoning. Planning Staff to discuss with Town Counsel.
- Expressed concerns with the Planning Board being the Special Permit Granting Authority (SPGA). Feels the Planning Board develops the Bylaw and the Board of Appeals enforces the zoning and that this situation provides for checks and balances that works well. He felt that those who suggest the planning shouldn't be the enforcers. The HMOD 1 and HMOD 2 is an exception,

but was a direct response to a tourism issue and provided a comprehensive overlay district for one use. Steve emphasized that this is not a turf issues and it may be difficult for a 7 member Planning Board to act as SPGA, but the decision will be made at the Special Town Meeting.

- Section 414.3.4 – Special Permits: Felt the guiding principles were vague and need to be more specific for enforcement.
- Section 414.4.3 – Pre-Existing Structures: Questioned that certain alterations or extensions are allowed “by right”, which is different that the existing Bylaw.
- Building Height: The 48’ will be a touchstone and will need a big sell for buildings of this height, although he thinks the 48’ is needed. The 65’ height is probably needed for a water park, but questioned whether the zoning was written for one lot/owner.
- High residential density adjacent to the street may be a tough sell.
- Section 414.8.11 – Signage: Steve expressed concern that the TCOD sign section negates the existing sign ordinance. Nate Kelly indicated that the TCOD bylaw is to supplement the existing signage bylaw and is not meant to override it.

Chris Vincent acknowledged it is a difficult read, but if fully digest the bylaw, it is well thought out and crafted. It isn’t perfect, but hopes meetings like this will help to polish it some more.

Debbie Martin asked about the final goal of the Bylaw. Brad Goodwin indicated that one year ago the Board of Selectmen (BOS) asked the Planning Board to develop an impetus to get more business development to Yarmouth to offset the high residential tax base. The TCOD is meant to be an invitation to builders to come to Yarmouth. Tom Roche indicated that it is creating year round jobs with higher pay.

Debbie Martin indicated that the waterpark is emphasized and is concerned with a bylaw revolving around one activity and doesn’t see a waterpark as Yarmouth’s salvation. There are other successful Towns with healthy economies that don’t have waterparks.

Tom Roche indicated that the TCOD originally did not include a waterpark and expressed concerns about the potential for extending this district further west and the need for upzoning and downzoning to show variation along Route 28.

Chris Vincent indicated that the TCOD is 4 districts and only one allows a waterpark, which may not be built. Each district can stand alone and was designed to be separate.

Brad Goodwin indicated that he personally did not have a problem giving the ZBA the power for SPGA. Emphasized that Route 28 is stagnant and needs a draw for more than 8-10 weeks per year. A waterpark/hotel could provide that. Brad indicated that an indoor waterpark would need to go through the review process of the Cape Cod Commission.

Bob Palmer indicated that a nice hotel was needed, but that the density concerned him. Brad Goodwin indicated that the public/private wastewater facility will help address typical density issue of waste disposal.

Steve DeYoung indicated that Route 28 in Yarmouth won’t handle the traffic like Hyannis. Renderings would be helpful to see build-out. Karen Greene indicated renderings will be developed once dimensional requirements are finalized.

No specific work force housing is proposed, but TCOD projects must meet the parameters of inclusionary zoning bylaw.

Tom Roche indicated that the Planning Board is the SPGA for HMOD1, HMOD 2, and R.O.A.D. projects and could play an important role in seeing the vision of the TCOD fulfilled. Nate Kelly had indicated that it is common in other Towns for the Planning Board to be SPGA. Steve DeYoung indicated that due to the size of the TCOD, this would make the Planning Board SPGA for 40% of commercial sector, while the rest would go to BOA. Emphasized that planners shouldn't be enforcers. Planners are viewing things based on future needs, while the BOA addresses what is on the books now. Debbie Martin felt Steve was on target with the need to separate planning and enforcement.

## **2. Minutes:**

- a. March 7, 2012: On a motion by Mr. Weare, seconded by Mr. Dipersio, members voted (6-0) unanimously to approve the minutes of March 3, 2012 as amended. Amendment included adding the time of adjournment.
- b. April 4, 2012: On a motion by Mr. Weare, seconded by Mr. Vincent, members voted (5-1) to approve the minutes of April 4, 2012 (Brad Goodwin abstained).
- c. June 6, 2012: On a motion by Mr. Driscoll, seconded by Mr. Dipersio, members voted (5-1) to approve the minutes of June 6, 2012 as amended (Brad Goodwin abstained). Amendments included spelling corrections and elimination of unfinished comment from Mr. Roche under the workshop item.
- d. June 20, 2012: On a motion by Mr. Goodwin, seconded by Mr. Dipersio, members voted (5-1) to approve the minutes of June 20, 2012 as amended (Norm Weare abstained). Amendments included eliminating a motion reference to defer minutes, spelling corrections, identification of Ms. Still as asking a question and elimination of unfinished comment from Mr. Goodwin under the Town Center Bylaw item.
- e. June 27, 2012: On a motion by Mr. Weare, seconded by Mr. Dipersio, members voted (5-1) to approve the minutes of June 27, 2012, as amended (Chris Vincent abstained). Amendments including adding Mr. Weare to the members present, and identifying members making motions for lot release and adjournment.
- f. July 11, 2012: On a motion by Mr. Driscoll, seconded by Mr. Vincent, members voted (5-1) to approve the minutes of July 11, 2012 as amended (Brad Goodwin abstained). Amendments included adding Mr. Weare to the members present.

## **3. TCOD Outstanding Issues:**

The Planning Board reviewed a portion of the outstanding issues table as summarized below:

- a. Item A.1 - District Size: Discussed the comments from the Ad Hoc regarding the modification made by the Planning Board and shown on the July 19, 2012 TCOD Map. This plan eliminated the four lots west of Winslow Gray/South Sea Ave and took out Swan Pond Village. A general discuss on including modifying the map boundaries ensued. The following votes were taken regarding modifications to the limits of the TCOD:
  - 1) Swan Pond Village: On a motion by Tom Dipersio and seconded by Chris Vincent, the Planning Board voted (4-2) to continue to keep Swan Pond Village out of District 3. Chris Vincent and Brad Goodwin opposed.
  - 2) District 1, Western End: On a motion by Tom Dipersio and seconded by Chris Vincent, the Planning Board voted (6-0) unanimously to add back into District 1 Red

Face Jacks (later identified as tax map 32/lot 12) and Seven Bean Coffee Shop (later identified as tax map 31/lot 132).

- 3) Sovereign Bank Parking Parcel: Including the parcel behind the bank in District 4 was discussed. This parcel and the parcel where Sovereign Bank is located are owned by the same entity and the back parcel is used for parking for the bank. The current proposal would have this lot down zoned from B1 to RS-40. On a motion by Chris Vincent and seconded by Tom Dipersio, the Planning Board voted (6-0) unanimously to add in the parcel of land behind Sovereign Bank (later identified as tax map 50/parcel 173).
  - 4) Lighthouse Landing: Frank Mastromauro of Lighthouse Landing has indicated he would like to be in District 3 which is more commercial, rather than District 2 which is more residential. Discussed whether this would result in spot zoning as the district line would wrap around this parcel only on the South side of Route 28. Renie indicated that the district lines shouldn't matter and would only be spot zoning if you were creating an island of one zone surrounded by another zone. Staff to confirm with Bruce Gilmore. On a motion by Tom Dipersio and seconded by Ken Driscoll, the Planning Board voted (5-1) to include Lighthouse Landing in District 3. Brad Goodwin opposed.
  - 5) Two Acre Parcel Behind Bowling Alley: Inclusion of this lot into District 4 was discussed, but no change was made.
- b. Item A.2- Incentives to Redevelopment: Discussed the items mentioned at the Ad Hoc meeting including getting CEDC recommendations, new market tax credits, improved financing and interest rates. No action taken.
  - c. Item B.1 – Purpose: - Staff will look at ways to simplify/clarify purpose of each district.
  - d. Item B.2 – Viewshed: The need to provide a definition of viewshed, and outline purpose and design standards for viewshed areas was discussed. Staff to review and make recommendations.
  - e. Item B.3 – Building Commissioner Review Thresholds: Committee and Board felt the review thresholds did not need expanding and this issue is done.
  - f. Item B.4 – Special Permit Provisions: No maximum commercial tenant size was specified to allow for a great project that may need an anchor store of more than the max. tenant size allowed. Staff to review special permit criteria and make recommendations.
  - g. Item B.5 – Height Table: Reviewed Ad Hoc discussion on eliminating ½ story reference and incorporating a maximum eave height similar to the HMOD2 to get the appearance desired while maximizing the usable space of the top floor. Staff to review and make recommendations.
  - h. Item B.6 – Dimension Table: Multiple issues regarding the dimensional table were discussed as follows:
    - District 1 – 0' frontage: Discussed the concern of the narrow Route 28 right-of-way (ROW) in this area and the potential need to provide sidewalk and other streetscape amenities on private property as it appears unlikely there is room within the ROW. Also discussed the overhead utilities and that NSTAR may have a minimum setback requirement from their poles & wires. Staff to try to contact NSTAR regarding their requirements. Revising the min. setback to 10' was discussed. Also discussed the legality of having public sidewalks on private property. Staff to contact Town Counsel.
    - District 2 Setback: The setback in District 2 was done to allow for more green space in this mostly residential area. No changes required.
    - District 3 & 4 Setback: Setbacks are the same. No changes required.

- Water Park Exterior Tubes: It was felt that these tubes should not be allowed within the setback as they are part of the structure. Staff to clarify language.
- Percent Coverage: Discussed the need to specify whether the maximum coverage is for the overall lot size or for uplands. It was generally agreed that this should apply to upland. Also discussed whether the public perception would be that the percent coverage allowed was too high. It was felt that visuals would be helpful. Staff to review. Agreed to continue to include porous pavements in the % coverage as it reads as impervious and may become impervious over time.
- 0' Side Yard Setback: Discussed the purpose and need to clarify this language. 0' setback should not be allowed on sides that abut a public roadway. Staff to review. Later discussion with Fire Chief, Mike Walker, indicated that 0' setback to buildings is not an issue if the proper fire rated walls are provided.
- Footnote B: As this is the same as in the existing Bylaw, agreed to leave wording as is.
- Footnote C & D: Edit this footnote to reference required "setback" per BC suggestion.
- Setback from interior roads: Setbacks to not apply to interior roads. Staff to clarify.

i. Item B.7 – Dimensional Relief. Discussed the possibility of including dimensional relief for building height, reduction in housing unit sizes, and setbacks. General consensus was not to provide any additional relief.

4. **Combining Ad Hoc & Planning Board Meetings:** Ken Driscoll proposed combining the Ad Hoc and Planning Board meetings to facilitate decision making. Until further notice, the Planning Board will now attend the Monday Ad Hoc Meetings and the Ad Hoc committee will attend the Wednesday Planning Board meetings.
5. **Schedule:** Discussed a draft schedule which outlined potential public meeting dates, hearing date and other important dates. It was originally hoped to have the first Public Meeting on August 8, 2012, but it was agreed that it was best to hold off until we had more defined product and visuals to show the public. Also discussed possibly having the public meetings somewhere other than the Town Hall. The Board agreed to have the first Public Meeting on August 22nd and a second on August 29<sup>th</sup>. The public hearing date is tentatively set for September 12, 2012.
6. **Board Member Items – NONE**
7. **Other Business/Correspondence:** None
8. **Next Meetings:**
  - a. July 30, 2012 – Combined TCOD Ad Hoc Committee and Planning Board meeting
  - b. August 1, 2012 – Combined Planning Board & TCOD Ad Hoc Committee meeting
  - c. August 22, 2012 – Public Outreach Meeting (revised from August 8, 2012).

9. **Adjournment:**

VOTE: On a motion by Mr. Goodwin, seconded by Mr. Vincent, the board voted (6-0) unanimously to adjourn at 8:00 p.m.

**ATTACHMENTS:**

- Agenda 07/25/12
- Revised TCOD Map dated July 19, 2012 (based on 7/18/12 Planning Board Meeting)
- Draft Minutes for: March 7, 2012; April 4, 2012; June 6, 2012; June 20, 2012; June 27, 2012; and July 11, 2012.
- Draft Schedule, dated July 23, 2012
- Outstanding Issues Table, dated July 23, 2012
- Renie Hamman June 27, 2012 Memo
- Renie Hamman July 12, 2012 Memo, Page 1
- May 14, 2012 Cape Cod Commission Letter

***Approved on August 1, 2012***

**On a motion by Brad Goodwin and seconded by Norm Weare, the Planning Board voted (5-0) unanimously to approve the minutes of July 25, 2012.**