

Town of Yarmouth

MINUTES OF THE PLANNING BOARD MEETING OF February 10, 2014

PLANNING BOARD
MINUTES
2014 FEBRUARY 10 5:30 REC

The Yarmouth Planning Board held a business meeting at **5:00** p.m. on **Monday, February 10, 2014** in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

Planning Board Present: Anthony Panebianco, Ken Driscoll, Chris Vincent, Norm Weare, Tom Roche and Brad Goodwin.

Planning Board Absent: None

Others Present: Kathy Williams, Town Planner; Kieran Healy BSC Group; Craig Whitten; Attorney Paul Tardif; and Jack Hynes.

Planning Board Chairman, Chris Vincent opened the meeting at 5:02 PM.

1. Zoning Articles for 2014 Annual Town Meeting. Please note that the discussion on the Zoning Articles was stopped at 5:30 for the noticed Public Hearing on the ROAD 2013-1 application. Although discussions on the articles resumed after the ROAD Hearing and ANR application, all notes have been consolidated together under this item.

a. RMD Bylaw - Draft #3 dated February 6, 2014 and RMD Overlay District dated January 16, 2014 and Potential Expansion Map at Exit 7:

- 1) **RMDOD Limits:** The Planning Board discussed concerns expressed by stakeholders regarding the RMDOD adjacent to Exit 8, specifically regarding the 100' setback to residential zoning districts and whether a specific setback from the railroad right-of-way (future bike path) should be provided. The Board also discussed the possibility of eliminating the RMDOD near Exit 8 altogether and expanding the RMDOD adjacent to Exit 7 to include Mid-Tech Drive (refer to the attached map). After discussion, the Board voted as follows:

On a motion by Norm Weare and seconded by Tom Roche, the Planning Board voted (4-2) to eliminate the RMD Overlay District along White's Path and expand the RMD Overlay District near Exit 7 to include Mid-Tech Drive, with Ken Driscoll, Chris Vincent, Norm Weare, and Tom Roche voting in favor, and Anthony Panebianco and Brad Goodwin opposing.

- 2) **RMD Size:** The Planning Board discussed reducing the gross floor area for an RMD from 20,000 sf to 10,000 sf. The Board discussed the RMDs in Dennis and Mashpee being in the 10,000 sf or smaller range and anything over 10,000 sf being reviewed by the Cape Cod Commission as a Development of Regional Impact (DRI). After discussion, the Board voted as follows:

On a motion by Tom Roche and seconded by Norm Weare, the Planning Board voted (5-1) to reduce the size of an RMD from 20,000 square feet to 10,000 square feet, with Anthony Panebianco, Ken Driscoll, Chris Vincent, Norm Weare, and Tom Roche voting in favor, and Brad Goodwin opposing.

- 3) **Miscellaneous:** After brief discussion, the Planning Board agreed to the following additional edits to the RMD Article:
 - Added a reference to installation of Yarmouth Fire Department Lockboxes to ensure building and site access.
 - Modified the Use Table and Footnotes to clarify that RMDs are allowed by ZBA Special Permit in the Aquifer Protection District (APD) only in the RMDOD.
 - Eliminated the 500' setback to drug or alcohol rehabilitation facilities, and to places that serve alcohol.
 - Clarified that reviews by the ZBA shall occur on an annual basis.
 - Modified the definition of Marijuana to reference the definition in MGL Ch. 94C.
 - b. **Extension of Temporary RMD Moratorium:** The Board reviewed Draft #1 dated January 13, 2014 with no revisions.
 - c. **FEMA FIRM Maps:** The Board reviewed Draft #2 dated January 16, 2014 with no revisions.
 - d. **Temporary Commercial Outdoor Display:** The Board reviewed Draft #4 dated February 6, 2014. After a brief discussion, the Planning Board agreed with the edits shown in Draft #4 and added an amendment to include properties that have developed under the VCOD.
 - e. **Zoning Map ROAD Amendments:** The Board reviewed Draft #2 dated January 16, 2014 with no revisions.
 - f. **Section 104.3.2(4) Amendment:** The Board reviewed Draft #2 dated January 16, 2014 with no revisions.
2. **Planning Board Recommendations on Zoning Articles:** The Planning Board voted on their recommendations for each article as follows:
- a. **RMD Bylaw:** Chris Vincent to move the motion and explain.
VOTE: On a motion by Brad Goodwin and seconded by Tom Roche, the Board voted (6-0) unanimously to recommend Draft #3 of the Registered Marijuana Dispensary article as amended above.
 - b. **Extension of Temporary RMD Moratorium:** Chris Vincent to move the motion and explain.
VOTE: On a motion by Brad Goodwin and seconded by Norm Weare, the Board voted (6-0) unanimously to recommend Draft #1 of the Extension of the Temporary RMD Moratorium article as written.
 - c. **FEMA FIRM Maps:** Tom Roche to move the motion and explain.
VOTE: On a motion by Norm Weare and seconded by Ken Driscoll, the Board voted (6-0) unanimously to recommend Draft #2 of the FEMA article as written.
 - d. **Temporary Commercial Outdoor Display:** Ken Driscoll to move the motion and explain.

VOTE: On a motion by Brad Goodwin and seconded by Anthony Panebianco, the Board voted (6-0) unanimously to recommend Draft #4 of the Temporary Outdoor Commercial Display article as amended to include properties developing under the VCOD.

- e. **Zoning Map ROAD Amendments:** Norm Weare to move the motion and explain.

VOTE: On a motion by Norm Weare and seconded by Brad Goodwin, the Board voted (6-0) unanimously to recommend Draft #2 of the Zoning Map ROAD Amendment article as written.

- f. **Section 104.3.2(4) Amendment:** Brad Goodwin to move the motion and explain.

VOTE: On a motion by Brad Goodwin and seconded by Norm Weare, the Board voted (6-0) unanimously to recommend Draft #2 of the Section 104.3.2(4) Amendment article as written.

- 3. **PUBLIC HEARING AT 5:30 PM:** 2013-1 Revitalization Overlay Architectural District (R.O.A.D.) Application, submitted by Craig & Nicole Whitten, Trustees of 45 Commercial, LLC, for the construction of a new mixed use building and site improvements at 20 Commercial Street, South Yarmouth (Assessor's Map 60/Parcel 173), located in the B1 zoning district. The first floor of the building is proposed to include storage for seasonal machines and supplies and the second floor would include two apartments. The 0.23 acre corner lot is currently vacant.

- a. **Hearing Opening:** Chris Vincent, Planning Board Chairman opened the public hearing at 5:30.
- b. **Public Hearing Notice:** The attached public hearing notice which was published in the Cape Cod Times on January 27, 2014 and February 3, 2014 was read into the record.
- c. **Presentation:** Kieran Healy of BSC Group, Attorney Paul Tardif and Craig Whitten were present and gave a brief summary of the project. The project has gone through Design Review, Site Plan Review, and has been recommended by the Community & Economic Development Committee (CEDC).
- d. **Planning Board Comments:** Anthony Panebianco felt the applicant made some good additions to the plan to address concerns of the Design Review Committee and was in favor of the project. Ken Driscoll felt it was an excellent design and a good fit to improve the area. Norm Weare indicated he liked the design and creation of 2 housing units for employees. Tom Roche indicated the applicant had already made a lot of improvements in the area and the proposed project may serve as incentive for other property owners. Brad Goodwin and Chris Vincent also indicated their support for the project.

Kathy Williams, Town Planner, reviewed the attached draft ROAD Approval Certificate and four proposed conditions. After a brief discussion and minor amendment to condition 4, the Planning Board voted as follows:

On a motion by Tom Roche and seconded by Ken Driscoll, the Planning Board voted (6-0) unanimously to approve ROAD Application 2013-1 submitted by 45 Commercial LLC for property located at 20 Commercial Street with the following four conditions, with Anthony Panebianco, Ken Driscoll, Chris Vincent, Norm Weare, Tom Roche and Brad Goodwin voting in favor.

1. **No on-street parking shall be allowed for the residential units.**
2. **The entire building will have a sprinkler system per NFPA-13 and permitted by the Yarmouth Fire Department.**
3. **All trees to be 3" minimum caliper.**
4. **Relocate the two 5' high Dark American Arborvitae on the west side of the building to either side of the double garage doors along the south façade.**

e. **Hearing Closed: On a motion by Norm Weare and seconded by Tom Roche, the Planning Board voted (6-0) unanimously to closed the Public Hearing at 5:45 PM with Anthony Panebianco, Ken Driscoll, Chris Vincent, Norm Weare, Tom Roche and Brad Goodwin voting in favor.**

4. **ANR Plan 2623A**: 822 Realty Trust (Jack Hynes, Trustee), 822 Route 28, South Yarmouth, Assessor's Map 33, Parcel 70. The ANR Plan creates two lots, with the rear lot having frontage off of Frank Baker Road.

Kieran Healy of BSC Group and Jack Hynes of 822 Realty Trust were present and gave an overview of the proposed 2 lot ANR. There were concerns expressed by the Planning Board regarding the adequacy of the access off Frank Baker Road for the rear lot. Frank Baker Road has a narrow right-of-way ranging from 20'-25' wide with a paved surface of approximately 10' that can only accommodate one-way traffic. Refer to the attached February 7, 2014 Planner Report for additional information.

Brad Goodwin expressed concern with the width of Frank Baker Road asked why there was a need to divide the lot when access could be obtained through the Irish Village property. Jack Hynes indicated that the motel use maxes out the septic capacity and any future development would need to be done on a separate lot. Brad Goodwin indicated that a single house lot would not be required to go through Site Plan Review, but that commercial development would require Design Review and Site Plan Review, when adequacy of access would also be discussed.

Tom Roche expressed concerns about fire truck access as the Fire Department typically wants a minimum of 14' wide. Also, it does not appear the width would allow two vehicles to pass and inquired as to when the Fire Department would weigh in on access. Kathy Williams indicated that the Fire Department would weigh in during Site Plan Review which would catch commercial development and multi-family projects. The applicant acknowledged that approval of the ANR does not mean the access is acceptable to the Fire Department and it may become an issue when a specific project is proposed in the future. Tom Roche inquired as to whether Frank Baker Road could be made wider. Kieran Healy indicated that part of the ROW is only 20' wide.

Norm Weare expressed the same concerns about access and that the adequacy of access to Lot 2 would depend on the proposed future use. Ken Driscoll agreed with Norm Weare and that it is difficult to judge adequacy of access without knowing the use for the lot.

Kathy Williams inquired as to whether the roadway/right-of-way could be widened onto the Irish Village property. Kieran Healy indicated that there is the potential to widen the road, but are not proposing to do this at this time and will depend on Site Plan Review comments.

Chris Vincent indicated that this is just an ANR endorsement and the applicant may have problems with a commercial development if the Fire Department says they can't access through Frank Baker Road.

On a motion by Norm Weare and seconded by Brad Goodwin, the Planning Board voted (6-0) unanimously to endorse ANR Plan #2623A dated February 6, 2014, with Anthony Panebianco, Ken Driscoll, Chris Vincent, Norm Weare, Tom Roche and Brad Goodwin voting in favor.

5. Meeting Minutes:

- a. January 15, 2014: On a motion by Norm Weare and seconded by Brad Goodwin, the Planning Board voted (4-0-2) to approve the Planning Board meeting minutes of January 15, 2014; with Chris Vincent, Norm Weare Tom Roche, and Brad Goodwin voting in favor, and Anthony Panebianco and Ken Driscoll abstaining.

6. ZBA Agenda & Decisions: None.

7. Correspondence: The following miscellaneous correspondence was sent via e-mail with little to no discussion.

- 1) February 7, 2014 e-mail from Colleen Bailey, Ma DCR Flood Hazard Management Program regarding summary and clarification of recent news articles on the FIRM maps
- 2) Barnstable February 26, 2014 ZBA Legal Notice.

8. Board Items: Tom Roche discussed the possibility of creating an achievement award to recognize redevelopment efforts. Anthony Panebianco indicated he would not be able to attend a February 26th meeting.

9. Staff Update: None.

10. Next Meetings:

- a. February 19, 2014 – No Meeting currently scheduled
- b. February 25, 2014 – Board of Selectmen on Zoning Articles (second meeting)
- c. February 26, 2014 – Finance Committee

11. Adjournment:

VOTE: On a motion by Tom Roche and seconded by Norm Weare, the board voted (6-0) unanimously to adjourn at 6:25 p.m.

ATTACHMENTS:

- **Agenda February 10, 2014.**
- **Zoning Articles:** Draft #3 of the RMD Bylaw dated February 6, 2014 and RMD Overlay District dated January 16, 2014 and Map of Potential Expansion of RMDOD by Exit 7; Draft #1 of the Extension of Temporary Moratorium on RMDs dated January 13, 2014; Draft #2 on the FEMA FIRM Maps dated January 16, 2014; Draft #4 on the Temporary Commercial Outdoor Display dated February 6, 2014; Draft #2 on the Zoning Map ROAD Amendments dated January 16, 2014; and Draft #2 of the Section 104.3.2(4) Amendment dated January 16, 2014.
- **Medical Marijuana Usage:** February 10, 2014 e-mail from Kathy Williams to PB members regarding DPH and local regulations limiting the use of medical marijuana in public places and Chapter 114, the current Yarmouth Marijuana Bylaw.
- **FEMA Map Adoption:** February 6, 2014 e-mail from Colleen Bailey, MA DCR Flood Hazard Management Program regarding the negative impacts of not adopting the new FIRM Maps.
- **ROAD 2013-1 Application from Craig & Nicole Whitten, Trustees of 45 Commercial LLC:** February 6, 2014 Planner Report; Public Hearing Notice; January

14, 2014 Memo from CEDC; January 14, 2014 e-mail from Dick Martin, DRC Chairman; application submittal materials outlined in the February 6, 2014 Planner Report memo; Planner sketch of foundation plantings along the south and western facades; and Draft Certificate of Approval of a ROAD Plan for 2013-1.

- **ANR Plan #2623A:** February 7, 2014 Planner Report; Form A, ANR Plan 2623A, dated January 24, 2014 and revised plan dated February 6, 2014; photos of Frank Baker Road; and miscellaneous old plans of the property as outlined in the February 7, 2014 Planner Report memo.
- **Draft Meeting Minutes:** January 15, 2014.
- **Miscellaneous correspondence** sent to the Planning Board via e-mail since the last Planning Board Meeting:
 - i. February 7, 2014 e-mail from Colleen Bailey, Ma DCR Flood Hazard Management Program regarding summary and clarification of recent news articles on the FIRM maps
 - ii. Barnstable February 26, 2014 ZBA Legal Notice.

Approved on March 19, 2014

On a motion by Brad Goodwin and seconded by Ken Driscoll, the Planning Board voted (5-0) to approve the Planning Board meeting minutes of February 10, 2014; with Anthony Panebianco, Ken Driscoll, Chris Vincent, Tom Roche, and Brad Goodwin voting in favor.