

Town of Yarmouth

Per M.G.L.: All town and school boards, committees, commissions, and authorities shall post a notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays, and legal holidays. Notice shall contain a listing of topics/agenda that the chair reasonably anticipates will be discussed at the meeting.

Notice of Meetings

Name of committee, board, etc:	Planning Board
Date of Meeting:	February 22, 2023
Time:	5:30 p.m.
Place:	Town Hall Hearing Room 1146 Route 28, South Yarmouth, MA 02664 OR Zoom Link: https://us02web.zoom.us/j/89836415124 Phone: +1 301 715 8592 and enter webinar ID: 898 3641 5124

This is to formally advise that, as required by M.G.L. Chapter 30A, §§ 18-25, and pursuant to Chapter 22 of the Acts of 2022, and *An Act Relative to Extending Certain State of Emergency Accommodations*, signed into law on July 16, 2022, the Yarmouth Planning Board will hold a public meeting at the date and time noted on the Notice of Meeting. The public is welcome to attend either in-person or via the alternative public access provided on the Notice of Meeting available on the Town of Yarmouth website.

Agenda (Topics to be discussed):

1. **Accessory Apartment Bylaw Amendments:** Continued discussion on possible zoning amendments related to Accessory Dwelling Units (ADUs)/Accessory Apartments.
2. Meeting Minutes
3. Board of Appeals Agenda & Decisions
4. Committee Updates from Board Members
5. Board Member Items
6. Correspondence
7. Staff Updates
8. Upcoming Meetings:
 - a. March 1, 2023
 - b. March 15, 2023
9. Adjournment

Attachments: All exhibits are available for public review in the Planning Department, Yarmouth Town Offices, 1146 Route 28, South Yarmouth, MA, during normal business hours.

Posted By (Name):	Kathleen D. Williams
Signature:	<i>Kathy Williams</i>

Town of Yarmouth

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YARMOUTH TOWN CLERK

'23FEB17PM1:46 REC

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Posted By (Name):	Kathleen D. Williams
Signature:	<i>Kathy Williams</i>

INPUT NEEDED FROM TOWN COUNSEL

407. ACCESSORY APARTMENTS.

407.1 Purpose and Intent. The intent of this bylaw is to:

1. Broaden the range of housing choices available to residents by increasing the number of smaller dwelling units available in Yarmouth for year-round rental while protecting the character, appearance and property values of single-family residential neighborhoods.
2. Address the need for additional rental housing units without significantly impacting our environmental resources.
3. Allow for better utilization and expansion of our existing housing stock ~~while protecting the character, appearance and property values of single-family residential neighborhoods.~~
4. Provide housing opportunities to support a strong, stable and diverse year-round community and a sustainable local workforce, prevent displacement of local residents, and facilitate “aging in place” for our senior citizens.
5. Provide an opportunity for family members who choose to live in close proximity, but separate from other family members, to remain within a family environment.

407.2 Eligibility: The following types of properties or developments are not eligible for an accessory apartment:

1. Deed restricted Affordable housing units.
2. All lots developed under a Comprehensive Permit (Chapter 40B).
3. Lots with more than one single-family dwelling unit (i.e., duplexes or multi-family).

407.3 General Standards and Provisions: All accessory apartments shall adhere to the following minimum requirements. Accessory Apartments are not eligible for Variances from these provisions:

1. Accessory apartments shall be complete and separate housekeeping units that function independently from a primary single-family dwelling unit and shall include sleeping, cooking and sanitary facilities. Kitchens shall include at a minimum a sink, stove with hood, and minimum 10 cubic foot refrigerator/freezer.
2. Only one accessory apartment per lot shall be allowed.
3. Dimensional Requirements:
 - a. Minimum lot size ~~of shall be~~ **10,000** square feet for studio or 1-bedroom accessory apartments. Minimum lot size shall be 15,000 square feet for 2-bedroom accessory apartments.
 - b. Lots developed with an accessory apartment shall not exceed the allowable building coverage per section 203.5.
 - c. New construction or additions shall not exceed the maximum allowable building height allowed in section 203.4.
 - d. New detached accessory structures that include an accessory apartment must

meet the dimensional requirements of section 203.5.

e. Expansions to pre-existing, non-conforming structures for an accessory apartment must meet the dimensional requirements of section 203.5.

4. An accessory apartment may be located within, or attached to, a principal residential structure or in a detached accessory building on the same lot and shall clearly be subordinate to the principal structure.
5. The accessory apartment shall be designed so that, to the maximum extent practical, the appearance of the property and building remains that of a single-family residence and is consistent with the design of the principal single-family dwelling, considering the following: architectural details, roof design, building spacing and orientation, door and window location, and building materials.
6. An accessory apartment shall contain no more than ~~two~~²-bedrooms. Studio and 1-bedroom accessory apartments shall have a maximum habitable floor area that is not larger than 50% of the habitable floor area of the principal single family dwelling unit, or 800 square feet, whichever is smaller. Two-bedroom accessory apartments ~~and~~ shall have a maximum habitable floor area that is not larger than 50% of the habitable floor area of the principal single family dwelling unit, or 900 square feet, whichever is smaller, ~~except under no conditions shall the apartment be less than 350 square feet.~~ Regardless of habitable floor area of the principal dwelling, accessory apartments shall not be less than 350 square feet. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations.
7. At least two (2) off street parking spaces on the premises shall be required for use by residents of the principal dwelling unit and two (2) additional off street parking spaces shall be required for use by the residents of the accessory apartment. There shall be no parking in existing green space in front of the principal dwelling unit, ~~or~~ and no expansion of parking into green space areas, in front of the principal dwelling unit.
8. An accessory apartment is not intended for sale and shall not be held in separate ownership from the principal structure/dwelling unit nor placed in a condominium form of ownership.
9. Site plans (including parking locations and any proposed landscaping), and floor plans are required for all accessory apartments. In addition, architectural plans showing elevations and building materials shall be provided for any additions or new construction.
10. The owners of the principal structure shall occupy, as their primary residence, either the principal dwelling unit or the accessory apartment. If the owner intends to occupy the accessory apartment rather than the principal structure, the principal structure will then be designated as the "accessory apartment". The owner-occupied unit shall not be rented in any manner.
11. All accessory apartments shall be for year-round use. All lease agreements shall be for a minimum of 12 consecutive months with no seasonal or Short-Term Rentals and no subletting or room rentals.
12. No commercial uses shall be allowed within an accessory apartment except for

those meeting the Definitions of Home Offices, and Home Occupations per Section 416. An accessory apartment shall adhere to all applicable State and local laws regulating new construction or residential use including the State Building Code, the applicable plumbing, electrical, fire, health, sanitary, conservation and historic regulations and bylaws. A Certificate of Occupancy shall be required for all accessory apartments.

407.4 Permit Procedure and Requirements.

1. All accessory apartment uses shall require a Special Permit from the Zoning Board of Appeals, except under the following conditions, when a permit may issued by the Building Commissioner.
 - a. Fully Conforming Lot and Structure: With the construction of the proposed accessory apartment, the property will remain in full compliance with the current height requirements per Section 203.4 and the current dimensional standards per Section 203.5; OR
 - b. Existing Conforming or Non-Conforming Structures: The accessory apartment will be fully located within the existing principal dwelling without increase in structure height or size except to provide adequate means of entrance/egress for the unit, and is limited to a studio or 1-bedroom unit; OR
 - c. Expansion or New Construction: The expansion of the existing structure or a new detached structure for an accessory apartment where the expansion/new construction is in full compliance with the current height requirements per Section 203.4 and the current dimensional standards per Section 203.5, is constructed on a minimum 25,000 square foot lot, and is limited to a studio or 1-bedroom unit.

407.5 Records and Inspections.

407.5.1 Documentation: The property owner shall be required to file a notarized affidavit with the Building Department by January 31st of each year~~every two years stating that:~~

1. Identifying whether the principal dwelling or the accessory apartment will be used as the principal residence of the owner and not rented in any manner, and that the remaining unit will be leased for a period of not less than 12 consecutive months. Copies of lease agreements shall be provided with the affidavit. OR
2. Identifying whether the principal dwelling or the accessory apartment will be used as the principal residence of the owner and not rented in any manner, and that the remaining unit will not be rented as it is being utilized by a family member, with the name and relationship of the family member identified. A family member shall be related to the owner(s) by blood, marriage or law, or other long-term family-like relationship that is care giving or parental in nature.

407.5.2 Inspections:

1. All accessory apartments to be rented shall be registered annually through the Yarmouth Health Department and issued a rental certificate which will include

occupancy limitations based on inspections.

2. All accessory apartments which are not rented and are used by a family member shall be inspected once every two (2) years by the Building Commissioner for which there shall be an additional user fee in the amount stipulated by the Board of Selectmen, payable at the date of inspection.

407.5.3 The Building Commissioner and Health Department shall maintain a running, up-to-date log of approved and/or inspected accessory apartments.

407.5.4. Failure to pass inspection or submit annual affidavits may allow the Building Commissioner to require removal of cooking, sanitary, sleeping facilities or structural portions previously approved, associated with the addition of the accessory apartment. Zoning Bylaw violations are subject to penalties outlined in Section 101.3.

407.6 Existing Family-Related Accessory Apartments and Affordable Accessory Apartments created before the adoption of this bylaw (*insert date*):

407.6.1 Existing Family-Related Accessory Apartments created before the adoption of this bylaw (*insert date*):

1. Lawfully existing family-related accessory apartments may continue under the issued Special Permit and Declaration of Covenants recorded at the Barnstable County Registry of Deeds. The requirements of Section 407.5 - Records and Inspections, shall apply to existing family-related accessory apartments.
2. The Special Permit and Declaration of Covenants for a family-related accessory apartment may be terminated by the owner(s) provided the family-related accessory apartment is removed and upon a satisfactory inspection by the Building Commissioner.
3. Lawfully existing family-related accessory apartments may be converted into a rental accessory apartment through a Special Permit from the Zoning Board of Appeals. In this circumstance, the Board of Appeals may waive the General Standards and Provisions of Section 407.3 through the Special Permit, but shall not allow for an increase in the accessory apartment size. **The Applicant shall file a Declaration of Release of Covenants at the Barnstable Registry of Deeds.**

407.6.2 Existing Affordable Accessory Apartments created before the adoption of this bylaw (*insert date*):

1. Lawfully existing Affordable Accessory Apartments may continue under the issued Special Permit, Declaration of Covenants and Affordable Housing Restriction recorded at the Barnstable County Registry of Deeds. The requirements of Section 407.5 - Records and Inspections, shall apply to existing Affordable Accessory Apartments.

2. The Special Permit, Declaration of Covenants and Affordable Housing Restriction for an affordable accessory apartment may be terminated by the owner(s) provided the affordable accessory apartment is removed and upon a satisfactory inspection by the Building Commissioner and in accordance with the Affordable Housing Restriction.
3. Lawfully existing Affordable Accessory Apartments may be converted into a rental accessory apartment through a Special Permit from the Zoning Board of Appeals. In this circumstance, the Board of Appeals may waive the General Standards and Provisions of Section 407.3 through the Special Permit, but shall not allow for an increase in the accessory apartment size. The Applicant shall file a Declaration of Release of Covenants and Release of the Affordable Housing Restriction at the Barnstable Registry of Deeds.

407.7 Transfer Upon Sale:

407.7.1 Accessory Apartments created after the adoption of this bylaw (*insert date*):

1. The rights and requirements related to a lawfully developed accessory apartment created after the date of adoption of this bylaw (*insert date*) shall transfer on sale of the property. New property owners shall provide an affidavit to the Building Commissioner per Section 407.5 prior to occupying or renting the accessory apartment. .

407.7.2 Family-Related Accessory Apartments: The following shall govern the transfer of Family Related Accessory Apartments in existence prior to the adoption of this bylaw (*insert date*):

1. The Special Permit for a family-related accessory apartment shall terminate upon the sale of the property or transfer of title to the dwelling unless the new owner(s) files on the subject property a new Declaration of Covenants at the Barnstable County Registry of Deeds at the time of transfer or within 45 days of the sale, agreeing to abide by the prior restrictions of the Special Permit. The new Declaration of Covenants must contain the endorsement of the Building Commissioner that the family-related accessory apartment and the tenant continue to conform to eligibility requirements. The new Declaration of Covenants shall state that the right to use a family-related accessory apartment may cease upon transfer of title. A time-stamped copy of the recorded Declaration of Covenants shall be provided to the Board of Appeals, the Building Division and the Board of Health.
2. If no action is taken by the new owner(s) at the time of transfer or within 45 days of the sale, then the new owner(s) must apply for re-approval of the Special Permit by the Board of Appeals, or conversion of the unit per Section 407.6.
3. The requirements of Section 407.5 - Records and Inspections, shall apply to existing family-related accessory apartments.

407.7.3 Affordable Accessory Apartments: The following shall govern the transfer of Affordable Accessory Apartments in existence prior to the adoption of this bylaw (insert date):

1. The Special Permit for an affordable accessory apartment shall terminate upon the sale of the property or transfer of title to the dwelling unless the new owner(s) files on the subject property a new Declaration of Covenants and an Affordable Housing Restriction at the Barnstable County Registry of Deeds at the time of transfer or within 45 days of the sale, agreeing to abide by the prior restrictions of the Special Permit, and the following provisions:
 - a. Maximum rents permitted. Affordable accessory apartments shall be rented only to low-income households for periods not less than one year. Maximum rent paid shall be equal to no more than 30% of the theoretical income of a household in the Barnstable-Yarmouth Metropolitan Statistical Area (MSA) earning 70% of the Area Median Income (AMI), as published annually by the U.S. Department of Housing and Urban Development (HUD).
 - b. Guidelines for income eligibility. All applicants for occupancy of an affordable accessory apartment shall, at the time of initial rental application, submit to the town, or to the town's agent, all necessary documentation to confirm their eligibility for the unit. Eligible low-income households shall have an income of no more than 80% of the current Area Median Income (AMI) in the Barnstable-Yarmouth Metropolitan Statistical Area (MSA) and assets meeting program guidelines.
4. The new Declaration of Covenants must contain the endorsement of the Building Commissioner and the Town's delegated affordable housing inspector that the affordable accessory apartment and the tenant continue to conform to eligibility requirements. The new Declaration of Covenants shall state that the right to use an affordable accessory apartment may cease upon transfer of title. A time-stamped copy of the recorded Declaration of Covenants shall be provided to the Board of Appeals, the Building Division and the Board of Health.
5. If no action is taken by the new owner(s) at the time of transfer or within 45 days of the sale, then the new owner(s) must apply for re-approval of the Special Permit by the Board of Appeals, or conversion of the unit per Section 407.6.
6. The requirements of Section 407.5 - Records and Inspections, shall apply to existing affordable accessory apartments.

USE TABLE:

202.5 Use Regulation Table	Res	RS-40	B1 ²¹	B2 ²¹	B3 ²¹	RMDOD ⁴⁴	MU	APD	AED	MOD	HMOD 1	HMOD 2	VC 1	VC 2	VC 3	VC 4
A. RESIDENTIAL																
A10 Accessory apartments	BA ⁵⁵	BA ⁵⁵	BA ⁵⁵	BA ⁵⁵	no	no	no	BA	no	BA ⁵⁵	no	no	no	no	no	no

Notes:

55. Except “Yes” for Accessory Apartments meeting the requirements of Section 407.4 – Permit Procedure and Requirements

DEFINITIONS:

AFFORDABLE ACCESSORY APARTMENT – A secondary, separate housekeeping unit of limited size, with its own sleeping, cooking and sanitary facilities, located within, attached to, or adjacent to a primary single-family dwelling unit. An affordable accessory apartment shall have deed restrictions that hold rent to affordable housing guidelines set by the Town.

FAMILY-RELATED ACCESSORY APARTMENT – a secondary, separate housekeeping unit of limited size, with its own sleeping, cooking and sanitary facilities, which is located within, attached to, or adjacent to a primary single-family dwelling unit. **A family member shall be related to the owner(s) by blood, marriage or law, or other long-term family-like relationship that is care giving or parental in nature.**

ACCESSORY APARTMENT – A secondary, separate housekeeping unit of limited size, with its own sleeping, cooking and sanitary facilities, located within, attached to, or adjacent to a primary single-family dwelling unit.

ZONING ARTICLE #1: To see if the Town will vote to amend various sections of the Zoning Bylaw to modify certain provisions related to Accessory Apartments, with new language shown in bold italics, as follows, or take any other action relative thereto:

1. Amend Section 202.5 – Use Regulation Table, by modifying the following Uses:

Modify Use A10 Accessory apartments, by replacing the text “BA” with new text “**BA⁵⁵**” in the Res, RS-40, B1, B2 and MOD zoning districts as shown:

202.5 Use Regulation Table	Res	RS-40	B1 ²¹	B2 ²¹	B3 ²¹	RMDOD ⁴⁴	MU	APD	AED	MOD	HMOD 1	HMOD 2	VC 1	VC 2	VC 3	VC 4
A. RESIDENTIAL																
A10 Accessory apartments	BA⁵⁵	BA⁵⁵	BA⁵⁵	BA⁵⁵	no	no	no	BA	no	BA⁵⁵	no	no	no	no	no	no

2. Amend Section 202.5 – Use Regulation Table - Footnotes, by adding the following new Footnote 55 as shown:

55. Except “Yes” for Accessory Apartments meeting the requirements of Section 407.4 – Permit Procedure and Requirements

3. Amend Section 104.3.5 Other Adjoining Non-Conforming Lots, Paragraph 3.D, by replacing the text “*family related apartments*” with new text “***accessory apartments***” as shown:

D. limitations on the allowable present or future development or use of the site, including, where appropriate, restrictions and/or prohibitions of accessory or other uses, home occupations, and ***accessory apartments***.

4. Amend Section 407 – Accessory Apartments, by deleting this Section in its entirety and replacing with the following new text as shown:

INSERT FINAL LANGUAGE FOR SECTION 407

5. Amend Section 418.3 Ineligible Units, Paragraph 2 (Short-Term Rentals), by replacing the text “2. *Family-related or affordable accessory apartments*” and with new text “**2. *Accessory apartments***”.

6. Amend Section 500 – Definitions, by adding a new Definition for ACCESSORY APARTMENT as shown:

ACCESSORY APARTMENT – A secondary, separate housekeeping unit of limited size, with its own sleeping, cooking and sanitary facilities, located within, attached to, or adjacent to a primary single-family dwelling unit.

7. Amend Section 500 – Definitions, by amending the Definition for FAMILY-RELATED ACCESSORY APARTMENT by adding new text as shown:

FAMILY-RELATED ACCESSORY APARTMENT – a secondary, separate housekeeping unit of limited size, with its own sleeping, cooking and sanitary facilities, which is located within, attached to, or adjacent to a primary single-family dwelling unit. *A family member shall be related to the owner(s) by blood, marriage or law, or other long-term family-like relationship that is care giving or parental in nature.*

Explanation:

Requires 2/3rds Vote

Selectmen Recommend (x-x)

Finance Committee Defers to Planning Board

(Planning Board)

Williams, Kathleen

From: Florio, Mary Alice
Sent: Thursday, February 16, 2023 8:36 AM
To: Stone, Mike; Horgan, Dan; Forest, Mark; Smith, Peter Q.; McGurrin, Dorcas
Cc: Whritenour, Robert; Greene, Karen; Williams, Kathleen; Scott, William
Subject: FW: 2/15/23 ADU meeting.....

-----Original Message-----

From: Debra Petrowski <dtpetrowski@yahoo.com>
Sent: Thursday, February 16, 2023 8:13 AM
To: Selectmen <Selectmen@yarmouth.ma.us>
Cc: Debbie Petrowski <dtpetrowski@yahoo.com>
Subject: 2/15/23 ADU meeting.....

Attention!: This email originates outside of the organization. Do not open attachments or click links unless you are sure this email is from a known sender and you know the content is safe. Call the sender to verify if unsure. Otherwise delete this email.

Good Morning,

I attended about 2 hours of last nights meeting.

I believe it necessary that abutters be informed of a neighbors intend to add an ADU property. The statement by one on the panel that, this is my property and I may add an ADU without neighborhood notification, does not sit well with me nor does it bode well for Yarmouth on the whole.

People not only buy their home, they buy their neighborhood.

I fear the complexion of Yarmouth is at stake here with the likes of such unneighborly handling of each home owners property.

Lastly, a board member mentioned twice.... "Certain neighborhood letters," the exact neighborhood was not named, but it was stated that this neighborhood was not in favor of ADU's in town.

I felt these references were unnecessary and unprofessional.

Thank you for your time here,
Sincerely, Debbie Petrowski

Sent from my iPhone

Williams, Kathleen

From: Florio, Mary Alice
Sent: Thursday, February 16, 2023 8:35 AM
To: Stone, Mike; Horgan, Dan; Forest, Mark; Smith, Peter Q.; McGurrin, Dorcas
Cc: Whritenour, Robert; Greene, Karen; Williams, Kathleen; Scott, William
Subject: FW: ADU

From: Robert DiTrapano <ditrapan@gmail.com>
Sent: Wednesday, February 15, 2023 7:13 PM
To: Selectmen <Selectmen@yarmouth.ma.us>
Subject: ADU

Attention! This email originates outside of the organization. Do not open attachments or click links unless you are sure this email is from a known sender and you know the content is safe. Call the sender to verify if unsure. Otherwise delete this email.

Dear Board of Selectmen,

I am writing in regards to the ADU amendment that will be discussed in the upcoming February meeting.

As a lifelong visitor to West Yarmouth and recent resident (purchased Spring 2021) I am concerned that a rush to vote on the amendment without the proper vetting will materially impact the town.

A thorough study needs to be done on the impact of ADU's and what possible regulations can and should be passed to assure the long term vision and viability of the town.

Thanks you for your consideration

Robert DiTrapano
24 Moss Rd.
W. Yarmouth, MA



SABRINA RAMSEY KANE
ATTORNEY AT LAW

411 Main Street, Building 5, Unit A, Yarmouth Port, MA 02675
508-694-9201 • sabrina@attorneykane.com • attorneykane.com

February 16, 2023

Yarmouth Planning Board
Town of Yarmouth
1146 Route 28
South Yarmouth, MA 02664



Dear Chair Crowley,

This letter is sent in response to the argument that a special permit should be required for all Accessory Dwelling Unit (“ADU”) applications. And while this position is not uniformly supported by the Board, the Board is still including the requirement of a special permit in certain cases.

The justification for the special permit requirement under any circumstances is shaky at best. It rests on the false premise that the presence of rented ADUs in a neighborhood changes the character of the neighborhood from residential to commercial. A claim was made that they “commercialize” the neighborhood, and since abutters would be affected by the change (regardless of the parking issue), abutters should have the right to object to their neighbor’s ADU.

The problem: Rented ADUs don’t alter the character of a neighborhood. The objection to ADUs echoes one member’s previous objection that the proposed Yarmouth Housing Production Plan relied too much on rental housing to increase housing stock. The plain fact is the presence of tenants in a neighborhood doesn’t make that neighborhood any less residential. We should not enact housing laws premised on the view that renters are harmful to neighborhoods.

Special permitting requirements are a barrier to entry because they increase costs, especially legal fees, and have no function other than deterrence. They don’t make the units any safer. They simply add another obstacle for Yarmouth residents who want to use ADUs as part of their plan to age in place.

Therefore, I ask that the special permit requirement be stricken from the draft of the amendment. Thank you for your attention.

Sincerely,


Sabrina Ramsey Kane

Town of Yarmouth
MINUTES OF THE PLANNING BOARD MEETING OF
February 15, 2023

The Yarmouth Planning Board held a Hybrid in-person/remote access Business Meeting at **5:30** p.m. on Wednesday **February 15, 2023** in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

Planning Board Present: Susan Brita, Jim Saben, Joanne Crowley, Will Rubenstein, Brad Goodwin, and Ken Smith

Planning Board Absent: Chris Vincent

Staff Present: Kathy Williams, Town Planner

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

1. **Meeting Opening:** Chair Joanne Crowley opened the hybrid meeting at 5:31. Planning Board members were all in-person. All votes were roll call votes.
2. **Seasonal Employee Housing:** Discussion and possible support letter regarding the Parkers River Resort proposed Zoning Board of Appeals (ZBA) Petition for a second year of 100% seasonal employee housing at the Parkers River Resort at 759 Route 28.

Joanne Crowley noted that the Parker River Resort will be going before the ZBA to seek a second season of 100% seasonal employee housing. Brad Goodwin noted that as part of the public meeting last fall regarding motels used for 2022 seasonal employee housing, input was sought from police, fire, building and other departments and this property passed with flying colors. To an inquiry as to whether the Planning Board provides support letters to the ZBA, Brad Goodwin noted that the Planning Board has provided letters to the ZBA in support and opposition to projects in the past.

The Planning Board reviewed the attached draft memo and agreed through consensus to send the memo to the ZBA with the following modifications: memo to be from the entire Planning Board, identify the town staff that met with the Chamber, note that EOS Hospitality is the Red Jacket Resort, and eliminate the formal recommendation but retain the reference to the Planning Board's support of the petitioner's application.

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

Joanne Crowley began the discussion gauging whether the Board felt the amendments would be ready for Annual Town Meeting (ATM). Kathy Williams noted that there are two items on the ATM agenda that are a priority for the town and have been worked on for decades, municipal wastewater and development of the former drive-in property, and may not want to deflect from these important long-term projects by bringing forth the accessory apartment amendments at the ATM. She also noted that the fall special town meeting is typically used for larger zoning initiative with the spring only being used for smaller or time sensitive amendments. After an initial discussion, the Board agreed to discuss this again at the end of the meeting to see how much progress and consensus can be reached this evening.

Kathy Williams reviewed the attached Draft #5, dated February 9, 2023 which incorporated edits or potential language as directed by the Board at the February 1st meeting. The Board had a

robust discussion on many topics including: preventing parking in green space in front of the principal dwelling; setting minimum lot sizes as it relates to maximum unit size; setting lot sizes at it relates to 1 or 2-bedroom accessory apartments; special permit versus by-right, noting the abutter notification process for special permits and that by-right refers to the use and still needs to meet the zoning bylaw and all other state and local codes/regulations; reviewed the three by-right options; provisions for allowing home offices and home occupations in accordance with Section 416; setting an annual date for affidavits; reviewed conversion language for existing family-related (including expanded definition) and affordable accessory apartments; and the transfer upon sale options for new accessory apartments and existing family related/affordable apartments. The Board also reviewed two GIS maps showing existing lots of different sizes.

Public Comments:

- Angela Carbone: Ms. Carbone questioned allowing accessory apartments on lots as small as 10,000 sf, questioned if some abutter notification could be provided for by-right, noted that most zoning is in the fall, and asked about how the Town would know when a family related apartment turns into a rental unit. Kathy Williams indicated this is something that would get caught during inspections done every 2 years by the Building Department and/or the affidavits.
- Christine Greeley: Ms. Greeley indicated anything by-right is a significant issue, noted the lack of compliance in her neighborhood, felt 800 sf was an adequate maximum size, noted the significant wastewater issues with septic systems, importance of setting locations for allowable parking, and noted the maps were not catching all the lots in her neighborhood.
- Dick Neitz: Mr. Neitz noted that two family homes require twice the minimum lot size. He also stated that special permits should be required, referencing his time on the ZBA where family-related accessory apartments are regularly approved by the board and allow for abutters to provide valuable input on issues on a particular property or neighborhood.
- Vida Morris: Ms. Morris felt things were moving in the right direction but should all be by special permit.
- Joshua Trott: Mr. Trott stated that he felt there should be no minimum lot sizes or special permit requirements as long as they meet all the other codes.
- Karen Ingemie: Ms. Ingemie commented that she would like abutter notification, concurred with no parking in green spaces, and asked about trailers as accessory apartments. Kathy Williams stated that trailers cannot be used as accessory apartments and trailers cannot be lived in.
- Christina Bologna: Ms. Bologna agreed with Mr. Trott about by-right and no minimum lots sizes as long as abiding by all the other codes. She also noted that not all property owners will want an accessory apartment, a significant number of apartments is unlikely, referenced the large number of commuters over the bridge, likes renting and is not interested in buying a home, and accessory apartments are one of a variety of solutions to rental housing needs.
- Jessica Terry: Ms. Terry echoed Ms. Bologna comments noting that accessory apartments are the new normal and the amendments should have minimal restrictions to support the workforce, and that we can protect the neighborhoods while supporting our neighbors.
- Rachel Youngling: Ms. Youngling appreciated the board's thorough approach and sees the need for additional housing, but noted the high densities and existing abuses in her neighborhood and that she does not want to have to police her neighbors. She felt special permits are valuable and offer the opportunity for open discussions to address historic issues.
- Chris George: Mr. George stated that he was in favor of streamlining the process.
- Tom Nickinello: Mr. Nickinello noted the citizen's petition in the fall of 2022 which caused some great concerns and the board's efforts to develop a united amendment. He further

noted that special permits and by-right are part of our zoning process and it does not create two tiers.

- **Vida Morris:** Ms. Morris inquired as to whether an addition would require a special permit. Joanne Crowley noted that it would depend upon the particular property.
- **Angela Carbone:** Ms. Carbone indicated she felt accessory apartments would be popular as they are elsewhere. She questioned Mr. Saben's figure that only 10% of the accessory apartments would be by-right. Mr. Saben indicated he meant 10% of the accessory apartments constructed, not 10% of all residential housing units (so not 1 in every 10 houses), with maybe 20 accessory units/year. Mr. Goodwin emphasizes that as drafted now, accessory apartments would have market rate rents.

Written Comments: The Planning Board received the attached 21 written comment (most forwarded from the Board of Selectmen). The vast majority of the comments were related to requiring all special permits (no by-right options); need to look more closely at provisions including parking, water quality impacts, stormwater, staffing/enforcement and minimum lot size; need for more public input, discussion and analysis; and request to defer the proposed amendments to the fall Special Town Meeting (STM).

Discussion: Ultimately, the consensus of the majority of the Board was to:

- Amend the parking section to make it clearer that there shall be no parking in green spaces and no expansion of parking into green spaces when in front of the principal dwelling.
- Set minimum lot size at 10,000 square feet (sf) for studio/1-bedroom accessory apartments and a minimum lot size of 15,000 sf for 2-bedroom apartments.
- Set maximum unit size at 800 sf for studio/1-bedroom accessory apartments and 900 sf for 2-bedroom apartments, while retaining the 50% of habitable floor area limitation.
- Develop Maps that show the lot sizes less than 10,000 sf, 10,000-14,999 sf for studio/1-bedroom accessory apartments, and 15,000 and over for two-bedroom accessory apartments, as well as including the number of residential lots in each category.
- Retain the special permit requirements, except for the three by-right options as currently written.
- Require affidavits annually by January 31st.
- Leave the Transfer Upon Sale language as is for now.
- Obtain input from Town Counsel on the draft and how to address legal documents; and obtain input from Mary Waygan, Housing Administrator, related to existing affordable accessory apartments.

During the discussions, Susan Brita noted she would like all accessory apartments to be by Special Permit, felt that the minimum lot size should be 15,000 sf, did not want the accessory apartment to transfer upon the sale of the property, was not in support of allowing home office/home occupations within the accessory apartment (although okay for within the principal dwelling unit), and wanted to defer the amendment to the fall STM to have more public dialogue.

Schedule: The Board further discussed moving forward with the amendments for 2023 ATM. The majority of the Board wanted to continue to move forward at this time and agreed to an additional Planning Board meeting on February 22nd at 5:30 to continue the discussions and review a new draft which incorporates input from this evening and hopefully input from Town Counsel. Kathy Williams noted that to have the public hearing on March 15th, the notice to the paper describing the proposed amendments would need to be submitted by February 23rd.

4. **Meeting Minutes:**
 - a. **January 18, 2023:** On a motion by Susan Brita, and seconded by Will Rubenstein, the Planning Board voted (5-0-1) to approve the meeting minutes of January 18, 2023, with Jim Saben, Susan Brita, Joanne Crowley, Brad Goodwin, and Will Rubenstein voting in favor, and Ken Smith abstaining.
 - b. **February 1, 2023:** On a motion by Jim Saben, and seconded by Will Rubenstein, the Planning Board voted (5-0-1) to approve the meeting minutes of February 1, 2023, as amended to correct the Planning Board attendees, with Jim Saben, Susan Brita, Joanne Crowley, Ken Smith, and Will Rubenstein voting in favor, and Brad Goodwin abstaining.
5. **Board of Appeals Agenda & Decisions:** The attached ZBA Agenda and Decisions were sent to the Planning Board via e-mail.
6. **Committee Updates from Board Members:**
 - a. **Open Space & Recreation Plan (OSRP) Ad-Hoc Committee:** Will Rubenstein noted the Ad-Hoc Committee held an Open House on February 8th at 6PM in the Hearing Room and via remote access. Kathy Williams also noted that there is an OSRP Survey out now and is available on the Town website under News Items.
 - b. **Community Housing Committee (CHC):** Brad Goodwin indicated there is an affordable home available in the German Hill area and additional information is available on the Town Website.
7. **Board Member Items:** None.
8. **Correspondence:** The attached correspondence was sent to the Planning Board via e-mail.
9. **Staff Updates:** None.
10. **Upcoming Meetings:**
 - a. February 22, 2023 – additional meeting
 - b. March 1, 2023
11. **Adjournment: VOTE:** On a motion by Jim Saben, seconded by Will Rubenstein, the Planning Board voted unanimously (6-0) to adjourn at 8:45 PM.

ATTACHMENTS:

- **February 15, 2023 Agenda**
- **Sign in Sheets and List of Remote Participants**
- **Accessory Dwelling Units (ADUs):** Draft #5 Section 407 – Accessory Apartments, dated February 9, 2023; 2/9/23 e-mail from Susan Brita regarding parking; Map 1 and Map 2 showing various lot sizes; Table of ZBA Special Permits issued for Accessory Apartments; and written public comments.
- **Seasonal Employee Housing:** Draft Memo to ZBA regarding Parkers River Resort Petition
- **Draft Minutes:** January 18, 2023 and February 1, 2023
- **Miscellaneous Correspondence:**
 - Conservation Commission Agenda for 2/16/23
 - ZBA Agenda 2/9/23
 - ZBA Decisions 4993, 4994 & 5000
 - Cape Cod Commission Meeting Agenda for 2/16/23

Approved on _____:

On a motion by _____, and seconded by _____, the Planning Board voted (x-x-x) to approve the meeting minutes of February 15, 2023.

DRAFT