

# 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 IN-PERSON MEETING

YARMOUTH TOWN CLERK

'21JUL30PM3:40 REC

Name of committee, board, etc:	Planning Board
Date of Meeting:	August 4, 2021
Time:	5:30 p.m.
Place:	<b>Town Hall Hearing Room 1146 Route 28, South Yarmouth, MA 02664</b>

### Agenda (Topics to be discussed):

1. **Potential Zoning Amendments:** Continued discussion on potential zoning amendments for the fall Special Town Meeting.
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.
3. **Community Visioning:** Update and status of 2<sup>nd</sup> Visioning Survey.
4. Meeting Minutes
5. Board of Appeals Agenda & Decisions
6. Committee Updates from Board Members
7. Board Member Items
8. Correspondence
9. Staff Updates
10. Upcoming Meetings:
  - a. August 18, 2021
  - b. September 1, 2021
11. 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

1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-4492  
Telephone (508) 398-2231, Ext. 1276, Fax (508) 398-2365

Planning  
Division

## MEMORANDUM

To: Planning Board

Cc: Mark Grylls, Building Commissioner  
Karen Greene, Director of Community Development

From: Kathy Williams, Town Planner

Date: July 30, 2021

Subject: STM 2021 - Potential Zoning Amendments for Planning Board Discussion

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Based on input from the July 21<sup>st</sup> Planning Board meeting, the following outlines the zoning amendments under consideration for the fall STM.

1. **National Flood Insurance Program (NFIP) (Draft #1 – NFIP)**: The attached Draft addresses mandatory edits to the Zoning Bylaw in order to maintain eligibility in the NFIP. A copy of these edits have been sent to Shannon Hulst, Floodplain Specialists & CRS Coordination with the Cape Cod Cooperative Extension, for her input related to NFIP compliance. Staff also had further questions for Shannon as highlighted in the attached Draft.
2. **Zoning Map and Bylaw Conflict (Draft #2 – Section 201.2 – Classes of Districts)**. The attached Draft addresses the conflicts between the language in the existing zoning boundaries shown on the Zoning Map, and the written word within the Zoning Bylaw, for the rear boundaries of the B1/B2 zoning districts. This Draft 2 clarifies the boundary along the railroad to reflect the southern boundary line of the railroad property and not the centerline.
3. **Rezoning of Lots**: Three potential parcels were discussed for possible rezoning, 121 & 125 Route 6a, and 17 Berry Avenue. Staff reached out to the property owners to see if they were interested in rezoning their properties. The Stacy family of 17 Berry Avenue has expressed interest in the rezoning of their parcel from R25 to B2, and the Nybergs of 125 Route 6a have expressed support to rezone their parcels from a mix of B1/R40 to all B1. We anticipate feedback soon from the Cooperative Bank at 121 Route 6a.
4. **Employee Housing**: The Board had been discussing ways to create more year round housing units through the creation of smaller units, along Route 28, top of shop, cottages, etc., to supplement the commercial uses. Staff contacted Town Counsel to investigate whether there were any simple mechanism that could be enacted to ensure these units remain year round. Per the attached e-mail with Jay Talerman, it sounds as if ensuring the units remain year round may require additional time and thought and may be best put off until further work has been done on the update of the Housing Production Plan.

5. **Food Trucks (Draft 1 – Food Trucks)**: The Planning Board was interested in moving forward with amendments to support Food Trucks on town owned properties that may be within residential zoning districts where restaurants are not allowed. The attached Draft would allow for Mobile Food Vendors on town-owned property if approved by the Board of Selectmen through the Use of Town-Owned Property application process. There are also some simple standards that have been outlined for discussion with the Board, along with a definition for Mobile Food Vendor, and amendments to the Sign bylaw to allow for a sandwich board style sign when the Vendor is open for business. Also attached is the requested Barnstable Mobile Food Vendor Checklist.
6. **Section 303-Signs (Draft #1 – Signs)**: There have been further discussions with the Chair and Vice-Chair of the Zoning Board of Appeals (ZBA) regarding the attached Draft of the Sign bylaw. The intent of the change was to clarify when relief through Special Permit could be provided as outlined in Section 303.13, by eliminating the special permit criteria specifying “*that the result will be visually and aesthetically beneficial to the neighborhood*”. As outlined in the attached e-mail train with both the Chair and Vice Chair, there does not appear to be consensus as to how to address this issue, with one feeling Special Permit relief should apply to the entire sign bylaw, and the other feeling no Special Permit relief should be given (only qualifying Variances), and any lessening of the rules should be done through the Planning Board zoning amendment process.
7. **Micro-Brews (Draft 1 – Micro-Brews)**: The attached Draft modifies the E1 manufacturing use through a note to allow for micro brew pubs or ale houses in the B1/B2 districts by-right if the product is manufactured and sold for consumption on-site and not for off-site distribution.
8. **Body Art Establishments (Draft #2 – Body Art)**: The attached Draft 2 includes amendments that change the use to a J3 Use, allows body art establishments by-right in the B2, HMOD1 and the four VCOD villages, and includes definitions. Staff is still awaiting input from the Health Director regarding body piercing. Also attached is an e-mail from a resident commenting on the proposed amendment.

#### ATTACHMENTS:

- Draft 1 – National Flood Insurance Program, dated July 30, 2021
- Draft 2 – Section 201.1 – Classes of Districts, dated July 26, 2001
- Employee Housing – July 27, 2021 e-mail with Town Counsel
- Food Trucks:
  - Draft 1 – Food Trucks, dated July 29, 2021
  - Barnstable Mobile Food Unit Checklist
- Signs:
  - Draft 1 – Signs, dated July 16, 2021
  - July e-mails with ZBA Chair S. DeYoung and Vice Chair S. Igoe
- Draft 1 – Micro-Brews, dated July 29, 2021
- Body Art:
  - Draft 2 – Body Art, dated July 27, 2021
  - July 26, 2021 e-mail from K. DiTrapano regarding Body Art

## PROPOSED EDITS RELATED TO NFIP:

### 201. ESTABLISHMENT OF DISTRICTS

201.1 Classes of Districts. The Town of Yarmouth is herewith divided into the following classes of districts:

Residential (Res.): R-87, R-40, R-25, RS-40  
Business: B1, B2, B3  
Floodplain ZonesDistrict: VE, AE, AO, AH, X  
Municipal Use (MU)  
Adult Entertainment District (AED)  
Revitalization Overlay District (ROAD)  
Medical Services Overlay District (MOD)  
Hotel/Motel Overlay District 1 (HMOD1)  
Hotel/Motel Overlay District 2 (HMOD2)  
Village Centers Overlay District 1 (VC1)  
Village Centers Overlay District 2 (VC2)  
Village Centers Overlay District 3 (VC3)  
Village Centers Overlay District 4 (VC4)  
Registered Marijuana Dispensary Overlay District (RMDOD)

201.2 Zoning Map. B1, B2, B3, AED, MU, APD, MOD, HMOD1, HMOD2, ROAD, all districts of the VCOD, RMDOD and all residential districts are defined and bounded as shown on the map entitled "Official Zoning Map of the Town of Yarmouth," dated November 01, 2004, as most recently amended. This map and all explanatory matter thereon is hereby made part of this bylaw.

201.3 (Deleted)

201.4 – Floodplain DistrictZones. The Floodplain DistrictZones is herein established as an overlay district and includes all special flood hazard areas within the Town of Yarmouth designated as Zone AE, AO, AH and VE on the Barnstable County Flood Insurance Rate Maps (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Barnstable County FIRM that are wholly or partially within the Town of Yarmouth are panel numbers 25001C0557J, 25001C0559J, 25001C0567J, 25001C0569J, 25009C0576J, 25009C0577J, 25009C0578J, 25009C0579J, 25009C0583J, 25001C0586J, 25001C0587J, 25001C0588J, 25001C0589J, 25001C0591J, 25001C0782J, and 25001C0801J, dated July 16, 2014. The exact boundaries of the District may be defined by the 1%-chance100-year base flood elevations shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Building Division, the Engineering Division, the Planning Division, and the Town Clerk.

## 403 FLOOD AREA PROVISIONS.

403.1 Purpose: The purpose of the Flood Area Provisions is to protect the public health, safety, and general welfare, and to minimize the harmful impacts of flooding upon the community by:

1. Reducing threats to life and personal injury.
2. Minimizing new hazards for emergency response officials.
3. Reducing or preventing damage to public and private property, infrastructure, and utility services caused by flood waters.
4. Reducing or eliminating costs associated with cleanup and repairs caused by flooding.

403.2 Development: – All applicable development and uses in all Flood Zones A and V, as identified on Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) panels, whether permitted as a matter of right, by special permit, or by variance, shall meet the effective provisions of 780CMR (State Building Code). These maps are on file in the Building Division, the Engineering Division, the Planning Division, and the Town Clerk.

### 403.3 General Provisions:

1. Abrogation and Greater Restriction: The floodplain management regulations found in these Flood Area Provisions shall take precedence over any less restrictive conflicting local laws, ordinances or codes.
2. Disclaimer of Liability: The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.
3. Severability: If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the bylaw shall still be effective.

### 403.4 Designation of Community Floodplain Administrator:

The position of Building Commissioner is designated as the official Floodplain Administrator for the Town of Yarmouth.

### 403.52 Floodway Data

In Zone AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

### 403.6 Unnumbered A Zones:

In A Zones, in the absence of FEMA Base Flood Elevation (BFE) data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and

floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

#### 403.7 Submission of New Technical Data:

If the Town of Yarmouth acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.)

Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief  
99 High St., 6<sup>th</sup> floor  
Boston, MA 02110

And copy of notification to:

Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114

#### 403.83 Notification of Watercourse Alteration

In a riverine situation, the Conservation Administrator, shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

#### 403.94 Use Regulations

1. Within Zone AO & AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
2. Man-made alteration of sand dunes within Zones ~~V1-30~~, VE, and V which would increase potential flood damage are prohibited.

3. All new construction within Zones ~~V1-30~~, VE, and V must be located landward of the reach of mean high tide.

403.10 Recreational Vehicles in a Flood District: In AH, AE Zones, VE, and V Zones, all recreational vehicles to be placed on a site must be:

1. fully licensed and highway ready; OR
2. be on the site for less than 180 consecutive days; OR
3. be elevated and anchored in accordance with the flood zone's regulations for foundation and elevation requirements.

403.11 Permits Required in Floodplain Districts:

1. The Town of Yarmouth requires a permit for all proposed construction or other development in the floodplain overlay districts, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, filling and grading, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
2. The Town of Yarmouth's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been or will be acquired prior to start of construction.

403.12 Variances to Building Code Floodplain Standards:

1. Variances to the flood-resistant standards as found in the MA State Building Code may only be issued by the MA State Building Code Appeals Board.
2. For issued Variances, the Town of Yarmouth will request from the MA State Building Code Appeals Board written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.
3. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official stating that:
  - (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
  - (ii) such construction below the base flood level increases risks to life and property.
4. Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

#### 404.13 Variances from Section 403:

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if:

1. good and sufficient cause and exceptional non-financial hardship exists; and
2. the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
3. the variance is the minimum action necessary to afford relief; and
4. any required or applicable variances from the MA State Building Code Appeals Board have been obtained.

403.14 Flood District Definitions: The following Definitions apply specifically to these Flood Area Provisions and the Floodplain Districts.

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY means the channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;  
or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:



- (1) By an approved state program as determined by the Secretary of the Interior or  
(2) Directly by the Secretary of the Interior in states without approved programs.  
[US Code of Federal Regulations, Title 44, Part 59]

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE means a vehicle which is:

- (a) Built on a single chassis;  
(b) 400 square feet or less when measured at the largest horizontal projection;  
(c) Designed to be self-propelled or permanently towable by a light duty truck; and  
(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA means the land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a

perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

**PROPOSED EDITS RELATED TO ZONING MAP DISTRICT BOUNDARIES:**

201.2 Zoning Map. B1, B2, B3, AED, MU, APD, MOD, HMOD1, HMOD2, ROAD, all districts of the VCOD, RMDOD and all residential districts are defined and bounded as shown on the map entitled "Official Zoning Map of the Town of Yarmouth," dated ~~November 01, 2004~~October 29, 2019, or as most recently amended. This map and all explanatory matter thereon is hereby made part of this bylaw.

201.3 (Deleted)

201.4 – Floodplain Zones. The Floodplain Zones include all special flood hazard areas within the Town of Yarmouth designated as Zone AE, AO, and VE on the Barnstable County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Barnstable County FIRM that are wholly or partially within the Town of Yarmouth are panel numbers 25001C0557J, 25001C0559J, 25001C0567J, 25001C0569J, 25009C0576J, 25009C0577J, 25009C0578J, 25009C0579J, 25009C0583J, 25001C0586J, 25001C0587J, 25001C0588J, 25001C0589J, 25001C0591J, 25001C0782J, and 25001C0801J, dated July 16, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Building Division, the Engineering Division, the Planning Division, and the Town Clerk.

201.5 B1. ~~(Deleted x/x/21)In a B1 District the rear boundary line shall be the existing rear boundary lot lines as of March 15, 1946, not to exceed, however one thousand two hundred (1,200) feet in depth.~~

201.6 B2. ~~(Deleted x.x.21)In a B2 District the rear boundary line shall be the existing rear boundary lot line as of June 24, 1971 not to exceed, however, one thousand two hundred (1,200) feet in depth.~~

~~201.7 Rear Boundary Lot Line. The "rear boundary lot line," for purposes of district definition, is defined as that boundary line of a lot shown on a plan of land or described by deed, recorded with the Barnstable County Registry of Deeds, which is opposite the street line of Route 28.~~

201.7 District Boundaries. Boundaries of Zoning Districts shall be as shown on the Official Zoning Map. Where any uncertainty exists with respect to the boundary of any zoning district, as shown on the Zoning Map, the following rules shall apply:

- a. Boundaries of Zoning Districts shown on the Zoning Map which approximately follow or terminate at a town line, or current or former lot line, or street layout line, or edge of waterways/ waterbodies shall be construed to be actually at those lines.
- b. Boundaries of Zoning Districts shown on the Zoning Map which approximately follow or terminate along a railroad shall be interpreted to be the southern boundary line of the railroad property.
- c. Boundaries of Zoning Districts shown on the Zoning Map which approximately follow or terminate electric transmission lines south of Route 6, shall be interpreted to be at the centerline of the powerlines (approximately 33' north of the utility easement line).
- c. Rear boundary lines for B1, B2, and B3 along Willow Street and Route 28 that do not follow a property line shall not exceed one thousand two hundred (1,200) feet in depth, and shall be construed to be parallel to the road layout line.
- d. When not locatable in any other way, boundaries shall be determined by scale from the map.
- e. Whenever any dispute arises on zoning district boundaries as to the exact location of a district boundary line, the Building Commissioner or his/her duly authorized and qualified designee, shall determine the location of the line.

201.8 Lots in Two Districts. Where a district boundary line divides a lot in existence at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has frontage on a street in the less restricted district.

## Williams, Kathleen

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**Subject:** Housing - Potential Zoning Amendments

**From:** Jay Talerman

**Sent:** Tuesday, July 27, 2021 4:50 PM

**To:** Williams, Kathleen <[kwilliams@yarmouth.ma.us](mailto:kwilliams@yarmouth.ma.us)>

**Cc:** Waygan, Mary <[MWaygan@yarmouth.ma.us](mailto:MWaygan@yarmouth.ma.us)>; Grylls, Mark <[mgrylls@yarmouth.ma.us](mailto:mgrylls@yarmouth.ma.us)>

**Subject:** RE: Housing - Potential Zoning Amendments

You can accomplish a lot this through by right zoning but restrictions on usage in a by-right format are hard to implement and even harder to enforce.

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**From:** Williams, Kathleen <[kwilliams@yarmouth.ma.us](mailto:kwilliams@yarmouth.ma.us)>

**Sent:** Tuesday, July 27, 2021 4:36 PM

**To:** Jay Talerman

**Cc:** Waygan, Mary <[MWaygan@yarmouth.ma.us](mailto:MWaygan@yarmouth.ma.us)>; Grylls, Mark <[mgrylls@yarmouth.ma.us](mailto:mgrylls@yarmouth.ma.us)>

**Subject:** RE: Housing - Potential Zoning Amendments

Hi Jay,

Thank you for your quick response. Mary Waygan and I had discussed many of the items you noted below, but I was hoping there might a simpler way to accomplish the preference for year round housing. The mechanisms you mention below will take more time to think through with the Planning Board.

Thanks,  
Kathy

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Kathy Williams, PE  
Yarmouth Town Planner

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**From:** Jay Talerman

**Sent:** Tuesday, July 27, 2021 4:27 PM

**To:** Williams, Kathleen <[kwilliams@yarmouth.ma.us](mailto:kwilliams@yarmouth.ma.us)>

**Cc:** Waygan, Mary <[MWaygan@yarmouth.ma.us](mailto:MWaygan@yarmouth.ma.us)>; Grylls, Mark <[mgrylls@yarmouth.ma.us](mailto:mgrylls@yarmouth.ma.us)>

**Subject:** RE: Housing - Potential Zoning Amendments

Tricky issue given the scope of what we can do via zoning law. Perhaps we set it up as an overlay district whereby, via a special permit, we shrink lot sizes, allow accessory units, provide density bonuses, allow multi-family etc. in exchange for a restriction on square footage and year round occupancy

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**From:** Williams, Kathleen <[kwilliams@yarmouth.ma.us](mailto:kwilliams@yarmouth.ma.us)>

**Sent:** Tuesday, July 27, 2021 3:59 PM

**To:** Jay Talerman

**Cc:** Waygan, Mary <[MWaygan@yarmouth.ma.us](mailto:MWaygan@yarmouth.ma.us)>; Grylls, Mark <[mgrylls@yarmouth.ma.us](mailto:mgrylls@yarmouth.ma.us)>

**Subject:** Housing - Potential Zoning Amendments

Hi Jay,

The Planning Board has been talking about simple ways to promote year round housing in Yarmouth, especially rental housing.

One idea is to promote the creation of smaller units, along Route 28, top of shop, etc which would naturally be less expensive due to size and location, and not be considered Affordable Housing with all the deed and renter restrictions. Route 28 is also along our phase 1 of the sewer system.

The issue is related to devising a simple mechanism for inclusion in the Zoning Bylaw to ensure these units stay year round residential housing and don't turn into inexpensive second home condos or Airbnb. Do you have any suggestions on how this might be accomplished in the zoning bylaw without running afoul of the land use laws?

Thanks,  
Kathy

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Kathy Williams, PE  
Yarmouth Town Planner

## PROPOSED EDITS RELATED TO FOOD TRUCKS ON TOWN OWNED LAND

202.5 Use Regulation Table	Res.	RS-40	B1 <sup>21</sup>	B2 <sup>21</sup>	B3 <sup>2</sup> <sub>1</sub>	RMDOD <sub>44</sub>	M U	APD	AED	MO D	HMOD 1	HMOD 2	VC1	VC2	VC3	VC4
<b>H. RETAIL TRADE</b>																
H10 Eating & drinking establishments	no <sup>53</sup>	no <sup>53</sup>	yes <sup>18</sup>	yes <sup>18</sup>	no	no	no	BA <sup>16</sup>	no	no	yes <sup>18</sup>	no <sup>24</sup>	yes	yes	yes	yes

**Notes:**

53. Except “Yes” for Mobile Food Vendors that are to be located on Town owned land and for which all other applicable Town permits, approvals and licenses have been obtained, and for which approval has been obtained through application to the Town Administrator’s office for Use of Town-Owned Property.

Mobile Food Vendors and all associated components including seating shall be located outside of zoning setbacks. Vendors shall be responsible for trash removal, ensuring safe pedestrian and vehicle access and circulation, fire access and safety, and adequate parking for all uses on the site. Vendors shall not generate excessive or objectionable odors, smoke, noise or glare.

No music or entertainment allowed unless an Entertainment License has been obtained from the Yarmouth Board of Selectmen.

Signage shall be allowed per Section 303.

Hours of operation shall be as determined through the Use of Town-Owned Property application process.

**DEFINITIONS**

Mobile Food Vendor – means a food establishment that is located upon a vehicle, or which is pulled by a vehicle, where food or beverage is cooked, prepared and served.

## **303 - Signs**

### Definitions:

Sandwich Board Sign: A self-supporting, double-paneled sign, whose panels are not parallel but which are connected along the top edge and separated along the opposite edge to create an A-frame.

### Section 303 – Signs:

#### 303.4 Signs Allowed In All Zoning Districts

303.4.1 Temporary Signs. Only the following types of temporary signs will be allowed:

303.4.1.8 Mobile Food Vendors. Mobile Food Vendors may have one (1) sandwich board or A-frame sign not to exceed six (6) square feet in area. Such signs shall not cause safety issues or impeded visibility or access for vehicles or pedestrians; and may not be installed within the layout of public roads or on sidewalks, or within two (2) feet of the traveled surface of any road. The sign may only be displayed when the mobile food vendor is open for business. This temporary sign is in addition to other permanent signs allowed. Permit and fee is required.



**Application Fee: Mobile Truck Preparing Food - \$100.00 (new, one time) plus Permit Fee - \$50.00**

**Name of Business:** \_\_\_\_\_

**Owner:** \_\_\_\_\_

**Home Address:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

**Phone and Email:** \_\_\_\_\_

**Fixed Food Establishment:** \_\_\_\_\_

**MOBILE FOOD UNIT FOR PREPARING AND SERVING FOOD (ANNUAL)**

Time/Date of Scheduled Pre-op Inspection _____ Staff Review Date: _____	Yes	No
Floor Plans (to scale) : _____ Application: _____		
Certified Food Handlers Certification (1) * Must be on site while prepping/serving food		
Allergen Certification (1)		
Menu:___ Consumer Advisories: Allergen _____ Meats, Eggs, or Animal Foods _____		
Written Certification of the fixed, licensed food establishment or processing plant that they shall report to at least daily for all food, water and supplies and for all cleaning and servicing operations. Only commercial facilities shall qualify as a fixed food establishment or food processing plant. *Ships and large vessels may be exempt from this requirement only if it is demonstrated that the mobile food operation is of sufficient size to store and prepare all of the food proposed on the menu, as well as provide all of the required equipment in full compliance with the state sanitary code, 105CMR 590.00 add local health regulations		
Identification on vehicle: Person’s name and/or business name, city and telephone numbers in letters no smaller than 3 inches, on the left and right door panels of the vehicle or on the left and right sides of the trailer or boat.		
A convenient hand washing sink, location shown on floor plan, with hot and cold running water, soap dispenser, paper towel holder, and hand wash sign must be provided in the unit. It must be separate from the 2 or 3 bay sink (or 1 bay designated for hand washing with splash guard).		
Adequate water system, under pressure, to facilitate hand washing and/or cleaning and sanitizing of utensils/ equipment.		
Three compartment sink (or two compartment sink- with approved menu of limited food preparation) Drain boards are needed to air dry equipment.		
Hot water heating tank/heating unit capable of maintaining hot water at the temperature of at least 110F through a mixing valve or combination faucet. For Fixed Locations- A heating facility capable of producing enough hot water for these purposes shall be provided on the mobile food unit for the number of hours requested. An onsite electrical connection, a generator, propane, and/or battery back-up power may be used to satisfy this requirement.*		
Sanitizer and the appropriate test strips for the 2 or 3 bay sink		
Working stoppers for 2 or 3 bay sink.		
Cut Sheets, equipment specification (for all new food equipment, must be NSF or UL approved)		
Gloves, tissue paper and/or utensils used for handling food.		
Thermometers for checking cooking temperatures.		
Windows and door shall remain closed during food service operations. The serving window shall be equipped with an electronic air curtain and/or with screens/windows which automatically or mechanically self close; or if mechanical air-conditioning is provided, all service windows must be closed and equipped with automatic or mechanical self closing devices.		
Poisonous or toxic materials (storage location marked on plan, containers labeled, and must be stored away from food product/storage)		

	Yes	No
<p>Screens are required for all windows that are open.</p> <p>All mobile food operations selling or distributing ready-to-eat PHF's shall be equipped with mechanical refrigeration that can maintain PHF's at or below 41 degrees F. Freezer must maintain temperature of frozen foods. Thermometers needed for each unit to show internal temperatures. *A requirement for a unit that is requesting to remain at a fixed location for more than 4 hours must be equipped with onsite electrical connection, a generator, propane, and /or battery back up power.</p>		
<p>Mobile food operations shall be fully enclosed, with easily cleanable floors, walls, and ceilings (smooth easily cleanable surfaces)</p>		
<p>Lighting – sufficient/lighting shielded</p>		
<p>Refuse containers covered (sufficient number and size, durable, easily cleaned, and insect and rodent resistant)</p>		
<p>Storage of personal items - to be kept out of the food prep area.</p>		
<p>Restroom requirements to allow a mobile food unit to remain at a fixed location for more than (4) hours: If there are no restroom facilities provided onsite, the mobile food unit shall be equipped with a restroom facility (equipped with a toilet and its own hand wash sink which is separate from the hand washing facility provided in the preparation area).</p>		
<p>Notes:</p>		
<p>Attention: Bulk PHF's, with the exception of frozen desserts, must be sold on the same day as purchased or discarded at the end of the day. All hot foods shall be discarded if not used or sold at the end of the day.</p>		

- **Plan approval shall be granted or denied within 30 days.**
- **This list is a guidance and is not inclusive of all Federal, State and Local requirements**

## PROPOSED EDITS RELATED TO THE SECTIN 303 – SIGNS:

### TO ADDRESS HEIGHT OF FREE STANDING SIGNS FOR BUSINESS CENTERS:

303.5.4.2 Business Centers. A business center may have only one (1) free standing sign, not exceeding twenty four (24) square feet in area, with the advertising area divided among the business enterprises or identifying the business center name or both, with a maximum face height or width of eight (8) feet will be allowed. No part of the sign shall be more than twelve (12) feet in height above the average natural grade at the street. All parts of this type of freestanding sign shall have a minimum 6' setback from any property line. For Business Centers housing three or more tenants and a minimum of 20,000 square feet of retail/office space, the center may have a 48 square foot sign with a minimum setback of 12 feet. If a Business Center eligible for the 48 feet free standing sign has more than 1000 feet of frontage it may choose to divide the sign into two separate 32 square foot signs provided they meet 50 foot sideline setbacks and are separated by a minimum of 300 feet.

### TO ADDRESS SPECIAL PERMIT VERSUS VARIANCE CONCERNS:

303.13 Relief. Relief from the requirements of sections 303.3.10, 303.5.4.2, 303.5.4.3, 303.5.5.2 and 303.5.5.3 may be granted by the Board of Appeals by special permit, provided the Board finds, in addition to the requirements of section 103.2, that the relief requested meets the spirit and intent of this bylaw. ~~and that the result will be visually and aesthetically beneficial to the neighborhood.~~ All other relief shall be in the form of a variance, as provided in section 102.2.2.

## Williams, Kathleen

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**Subject:** Sign Special Permits vs. Variance

**From:** Sean Igoe

**Sent:** Thursday, July 29, 2021 12:06 PM

**To:** Williams, Kathleen <kwilliams@yarmouth.ma.us>

**Subject:** Re: Sign Special Permits vs. Variance

Kathy,

a follow-up and in addition to my previous email ,It would be my recommendation that the present language allowing for relief by special permit be stricken from the bylaw.

Thanks Sean

Sent from my iPhone

On Jul 29, 2021, at 12:02 PM, Sean Igoe wrote:

Hi Kathy,

The concern that I have about issuing special permits versus variances when it comes to sign relief is that it makes it very subjective for the board of appeals and that board members may be put in the position of deciding these petitions based upon their personal feelings and tastes. I'm fearful that petitioners will be coming in claiming that we are allowing some businesses to deviate from the bylaw and not allowing others, and accusing us of being arbitrary and capricious because we're deciding one petition a certain way and a similar petition another way, which may expose the town to litigation.

I'm of the opinion that having a strict set of rules regarding signs makes it clear to the applicant. That's why I've always favored variance relief where the applicant is required to demonstrate a hardship as well as meet the other criteria for the variance. In those situations the board has historically been sensitive to the needs and situation of the specific petitioner, and in those cases we've been able to grant relief by variance while staying consistent with the purpose and intent of the by-law.

However, if it's the desire of the planning board to make changes to the bylaw and make sign relief allowable by special permit I would respectfully suggest that the board give this careful thought , as I know they do with every change to the bylaw. I hope this is been helpful and if I can offer any more input or insight please feel free to contact me.

Thanks  
Sean

Sent from my iPhone

On Jul 29, 2021, at 9:02 AM, Williams, Kathleen <[kwilliams@yarmouth.ma.us](mailto:kwilliams@yarmouth.ma.us)> wrote:

Hi Sean,

I am wondering if you had a chance to review the attached draft sign edits along with the explanation below.

Per Steve DeYoung's comments below, I'm not sure how the Planning Board will feel about making everything Special Permit. However, I would like to make the ZBA feel comfortable issuing Special Permits as currently allowed per Section 303.13 with the appropriate modifications.

Thanks,  
Kathy

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Kathy Williams, PE  
Yarmouth Town Planner

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**From:** Steven DeYoung  
**Sent:** Thursday, July 22, 2021 4:07 PM  
**To:** Williams, Kathleen <[kwilliams@yarmouth.ma.us](mailto:kwilliams@yarmouth.ma.us)>; 'Sean Igoe'  
**Cc:** Grylls, Mark <[mgrylls@yarmouth.ma.us](mailto:mgrylls@yarmouth.ma.us)>  
**Subject:** RE: Sign Special Permits vs. Variance

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Kathleen: My feeling is that all relief under the sign code should be by Special Permit. The changes you have identified, otherwise, look great. Steve

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**From:** Williams, Kathleen <[kwilliams@yarmouth.ma.us](mailto:kwilliams@yarmouth.ma.us)>  
**Sent:** Thursday, July 22, 2021 12:17 PM  
**To:** 'Sean Igoe'  
**Cc:** Grylls, Mark <[mgrylls@yarmouth.ma.us](mailto:mgrylls@yarmouth.ma.us)>; Steven DeYoung  
**Subject:** RE: Sign Special Permits vs. Variance

Hi Sean,

Thank you for getting in touch with me regarding the Sign bylaw. Below is the e-mail summarizing the pertinent sections of the bylaw allowing for some relief by Special Permit rather than Variance. Based on your discussions with Mark Grylls, we made the attached edit for review by the Planning Board that eliminates the additional squishy special permit language related to "*visually and aesthetically beneficial to the neighborhood*" as that can be too subjective.

After you have had a chance to review, let me know if these edits would help the situation or if you have any other suggestions. I am also copying Steve for his input as well.

Thanks for your help!  
Kathy

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Kathy Williams, PE  
Yarmouth Town Planner

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**From:** Williams, Kathleen  
**Sent:** Thursday, July 15, 2021 3:25 PM  
**To:** Steve DeYoung; Sean Igoe  
**Cc:** Flett, Dawn-Marie <[dflett@yarmouth.ma.us](mailto:dflett@yarmouth.ma.us)>; Grylls, Mark <[mgrylls@yarmouth.ma.us](mailto:mgrylls@yarmouth.ma.us)>  
**Subject:** Sign Special Permits vs. Variance

Hi Steve & Sean,

I am working with the Planning Board to make some zoning changes to the sign bylaw. I watched the May 13<sup>th</sup> ZBA meeting regarding the attached sign request by Shaws and the Board viewed the relief required as a Variance rather than Special Permit. As Steve stated in the meeting, the Town worked hard to develop this current sign bylaw, which was done through a thoughtful process and approved at Town Meeting. Understanding that some situations may be unique to a business or property, the current bylaw includes a provision in Section 303.13 that allows for relief from certain sections of the bylaw to be given by Special Permit.

*303.13 Relief. Relief from the requirements of sections 303.3.10, 303.5.4.2, 303.5.4.3, 303.5.5.2 and 303.5.5.3 may be granted by the Board of Appeals by special permit, provided the Board finds, in addition to the requirements of section 103.2, that the relief requested meets the spirit and intent of this bylaw and that the result will be visually and aesthetically beneficial to the neighborhood. All other relief shall be in the form of a variance, as provided in section 102.2.2.*

Section 303.3.10 is regarding Illumination; 303.5.4.2 – Business Centers (free standing sign); 303.5.4.3 – Business Centers - Conformity (free standing sign); 303.5.5.2 – Singly Occupied or Co-branded Business Location (attached signs); and 303.5.5.3 – Business Centers (attached signs)). It would seem that relief could be given for the attached sign at Shaws as a Business Center (Section 303.5.5.3 below) through a Special Permit.

*303.5.5.3 Business Centers – Attached. All sections of 303.5.5.2 will apply except that only one attached sign per business will be allowed and no sign shall be longer than one third (1/3) of the length of the building occupied by that business. If a business in a business center has a rear or side public entrance, a secondary attached sign, no larger than four (4) square feet shall be allowed at said entrance.*

To help work up some modified language for the Planning Board, I would greatly appreciate your input and insights as to any edits to Section 303.13 that would clarify that relief from the criteria for the referenced sections can be done through a Special Permit. Please feel free to e-mail me or call at your convenience.

Thanks,  
Kathy

## PROPOSED EDITS RELATED TO MICRO BREWERIES

202.5 Use Regulation Table	Res	RS-40	B1 <sup>21</sup>	B2 <sup>21</sup>	B3 <sup>21</sup>	RMDOD <sup>44</sup>	MU	APD	AED	MOD	HMOD1	HMOD2	VC1	VC2	VC3	VC4
<b>E. MANUFACTURING</b>																
E1 Food & kindred products (*except no manufacturing of fats, oils & shortening)	no	no	no <sup>3,52</sup>	No <sup>52</sup>	yes <sup>9*</sup>	no	no	BA <sup>16</sup>	yes <sup>9*</sup>	no	no	no	no	no	no	no

Notes:

52. Except “yes” for Micro Brew Pubs or Ale Houses where the product is manufactured and sold for consumption on-site and not for off-site distribution.

## PROPOSED EDITS RELATED TO BODY ART ESTABLISHMENTS

Body Art (tattoo parlors) are regulated in the Zoning Bylaw through Section 202.5 - Use Table and Note 23.

Based on the July 21st Planning Board meeting, the modifications below move Body Art to the correct Use of J3 and will be allowed by-right in the B2, HMOD1 and all four VCOD villages. It is still not allowed in the B1 zoning district or the AED.

202.5 Use Regulation Table	Res.	RS-40	B1 <sup>21</sup>	B2 <sup>21</sup>	B3 <sup>21</sup>	RMDOD <sup>44</sup>	MU	APD	AED	MOD	HMOD1	HMOD2	VC1	VC2	VC3	VC4
<b>J. PERSONAL SERVICES</b>																
J1 Laundry, dry cleaning & garment services	no	no	yes <sup>4,18</sup>	yes <sup>2,18</sup>	no	no	no	BA <sup>16</sup>	no	no	yes <sup>2,18</sup>	no	yes <sup>38</sup>	yes <sup>38</sup>	yes <sup>38</sup>	yes
J2 Photographic studios	no	no	yes <sup>4,9,18</sup>	yes <sup>2,9,18</sup>	no	no	no	BA <sup>16</sup>	no	no	yes <sup>2,9,18</sup>	no	yes	yes	yes	yes
J3 Beauty & barber shops & <u>Other Personal Care Services</u>	no	no	yes <sup>4,18,23</sup>	yes <sup>2,18</sup>	no	no	no	BA <sup>16</sup>	no	no	yes <sup>2,18</sup>	no	yes	yes	yes	yes
J4 Funeral home	no	no	yes <sup>4,18</sup>	yes <sup>2,18</sup>	BA <sup>9</sup>	no	no	BA <sup>16</sup>	BA <sup>9</sup>	no	yes <sup>2,18</sup>	no	no	no	no	BA
J5 (Deleted 12-11-07)						no										
J6 Miscellaneous personal services	no	no	yes <sup>4,18,23</sup>	yes <sup>2,18,23</sup>	BA <sup>9,23</sup>	no	no	BA <sup>16</sup>	BA <sup>9</sup>	no	yes <sup>2,18,23</sup>	no	yes <sup>23</sup>	yes <sup>23</sup>	yes <sup>23</sup>	yes <sup>23</sup>

NOTE:

23. Except no for Body Art Establishments, as defined in in Section 500 - Definitions-105-CMR 124.000.

DEFINITIONS

Body Art Establishment or establishment - means a specified place, location, premises, or business that has been granted a permit by the Board of Health, whether public or private, where the practices of Body Art are performed, whether or not for profit.

Body Art - means the practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: tattooing, and cosmetic tattooing. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine in the Commonwealth, such as implants under the skin, which shall not be performed in a body art establishment.

NOTE: Town definition of Body Art differs from state model regulations as it excludes body piercing, branding and scarification.

Staff is checking with the Health Department as to whether body piercing is allowed in the Town of Yarmouth.

From the Board of Health Regulations Body Art/Tattoos and the regulations can be viewed at:

<https://www.yarmouth.ma.us/DocumentCenter/View/810/Town-of-Yarmouth-Body-Art-Tattoos-Regulations?bidId=>



## Williams, Kathleen

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**From:** Kathy DiTrapano  
**Sent:** Monday, July 26, 2021 1:28 PM  
**To:** Williams, Kathleen  
**Subject:** Re: 2nd Community Visioning Survey

**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.

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Dear Kathy - I have filled out the first survey as well as the second survey. I have also attended one of the online visioning sessions with the breakout groups.

Respectfully, I have a comment to share with you.

After I watched the Planning meeting from last week where the topic of tattoo parlors was brought up as a business that we would want on Route 28, I was really disappointed.

As I understand it they already have a place where they can locate, the adult district, I think is what I heard.

The woman speaker spoke about the artistry involved and the artists who work at tattoo parlors as well as some of the planning members speaking to the ability to fill vacant lots with these types of businesses. Yes, I'm sure there are many talented people working in tattoo parlors and granted the culture may be more accepting of tattoos as a whole. However, we need to see what our vision is before we go and give a thumbs up to this type of business on Route 28.

The way I look at the planning board's job is to take these suggestions of new businesses and to see how they fit into our Vision for Yarmouth, particularly Route 20. Not the other way around.

We are right now in the middle of putting together a Vision. How do tattoo parlors fit into that vision along Route 28?

We have the huge water project on the horizon which will play a major role in how the vision will play out.

Why don't we just put this issue of tattoo parlors along Route 20 on the backburner until we know what the Plan is for the Town?

Why are we advocating for this type of business when we do not have the vision clarity needed in order to make recommendations about the businesses along Route 28?

Please reconsider your support for allowing tattoo parlors along route 28 until we at least have a plan in place for what the vision is for our town.

**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 be helpful 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 \_\_\_\_\_:*

On a motion by \_\_\_\_\_, and seconded by \_\_\_\_\_, the Planning Board voted (?-?) to approve the meeting minutes of July 7, 2021.

**Town of Yarmouth**  
**MINUTES OF THE PLANNING BOARD MEETING OF**  
**July 21, 2021**

The Yarmouth Planning Board held an in-person Business Meeting at **5:30** p.m. on Wednesday **July 21, 2021** in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

**Planning Board Present:** Chris Vincent, Joanne Crowley, Tom Baron, Susan Brita, and Will Rubenstein

**Planning Board Absent:** Brad Goodwin and Liz Hartsgrove

**Staff Present:** Kathy Williams, Town Planner; and Mark Grylls, Building Commissioner

**Guests:** Mary Vilbon - Yarmouth Chamber of Commerce

1. **Potential Zoning Amendments:** Continued discussion on potential zoning amendments for the fall Special Town Meeting (date to be determined), with the Board providing input to staff on how to move forward. Formal Planning Board recommendations and votes will be made later prior to submission to the Board of Selectmen. Kathy Williams gave an overview of the potential zoning amendments for discussion as outlined in the attached July 16, 2021 Planner Memo.
  - a. **National Flood Insurance Program (NFIP):** Staff is working on the mandatory edits to the Zoning Bylaw in order to maintain eligibility in the NFIP and coordinating with Shannon Hulst, Floodplain Specialists & CRS Coordination of the Cape Cod Cooperative Extension, to ensure NFIP compliance. A draft will be ready for review at the August 4<sup>th</sup> meeting.
  - b. **Zoning Map and Bylaw Conflict (Draft #1 – Section 201.2 – Classes of Districts):** The attached Draft addresses the conflicts between the language in 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 Draft also clarifies how boundary lines will be determined if there is any uncertainty from the Zoning Map itself. Kathy Williams noted that further research of past Articles had been conducted and the boundary along the railroad is actually the southern boundary line of the railroad property (not the centerline).

After a brief discussion, the Board concurred with the language in the Draft along with the edit related to the boundary limits along railroads.
  - c. **Rezoning of Lots:** Three potential parcels were discussed for possible rezoning, 121 & 125 Route 6a, and 17 Berry Avenue. Staff reached out to the property owners to see if they were interested in rezoning their property. The Stacy family of 17 Berry Avenue has expressed interest in the rezoning of their parcel from R25 to B2. Staff is awaiting feedback from the two other property owners along Route 6a.
  - d. **Employee Housing (Draft #1 – Employee Housing):** The current bylaw allows for Employee Housing at Non-Motels in the B2 zoning district with limited 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 attached Draft redefines Employee Housing to reduce restrictions and outlines some additional parameters for consideration by the Board.

Kathy Williams indicated that she had some subsequent discussions with Mary Waygan, Housing Specialist, regarding various ways and mechanisms to ensure employee housing units created by the amendment remain year round and do not become second homes or short term rentals. Further research and input is needed from Town Counsel to identify the legal mechanisms for ensuring year round residents in the Zoning Bylaw. Staff will reach out to Town Counsel.

The Board also had a general discussion on seasonal employee housing, including dormitories and lodging houses and previous issues at motels. Mary Vilbon noted that some J1/H-2B workers arrive in Yarmouth without anywhere to live, regardless of being sponsored by an employer. Kathy Williams recommended discussing this topic with the Board of Selectmen (BOS) for their input at the Planning Board's update meeting on September 21<sup>st</sup>.

- e. **Food Trucks:** Kathy Williams gave a brief overview of the additional investigations done regarding food trucks in Yarmouth and other communities, including supplemental information received from Mary Vilbon of the Chamber of Commerce. Much of the regulations governing Food Trucks are included in the Board of Health Regulations with some towns having them licensed through the Board of Selectmen.

In general the Planning Board was supportive of food trucks, but may be more of a Board of Health issue than related to zoning. Kathy Williams noted that this may be another topic the Planning Board could discuss with the BOS for their input, with the BOS likely wanting to know how the business community feels about Food Trucks, especially restaurants. Kathy Williams indicated that Mary Vilbon offered to bring up this topic with the Chamber Board of Directors at their meeting at the end of the month and also to distribute a short survey prepared by the Board to restaurants to seek their input.

Mary Vilbon noted that her initial request was related to allowing food trucks at the beaches, as there had been an issue with securing a vendor for the concessions at the beaches. As the beaches are located in residential zones, they are not allowed by zoning as restaurants are not allowed in residential districts. The Board discussed including some standards related to signage, location, hours of operation, etc. Mark Grylls also noted the ability to get a waiver from the Special Permit requirement in the Aquifer Protection District (APD) if approved by the Health Director and the Building Commissioner.

The Planning Board was interested in moving forward with amendments to support Food Trucks on town owned property in residential zoning districts through approval by the BOS through the Use of Town-owned Property process, along with some simple standards. Staff will work up a draft for the next meeting.

- f. **Section 303-Signs (Draft #1 – Signs):** The Building Commissioner spoke with Sean Igoe of the Zoning Board of Appeals to get clarity regarding the issue with providing relief through Special Permit as outlined in Section 303.13. It appears that the issue is related to the special permit criteria specifying “that the result will be visually and aesthetically beneficial to the neighborhood”. The attached Draft 1 modifies Section 303.13 by eliminating this phrase, as well as clarifying the maximum height for business center signs at 12’.

After discussion, the Board was looking to have the Draft sent to the ZBA Chair and Vice Chair for their comments.

- g. **Body Art Establishments (Draft #1 – Body Art):** At the end of the last meeting, the Board had a request from Tom Nickinello along with a brief discussion on allowing body



art/tattoo shops along Route 28 to provide more business opportunities for something that has become more mainstream in recent years. The Board discussed the attached Draft amendments, including whether body shops match the vision for Route 28, why the need for high visibility along the commercial corridor, benefits of providing additional business opportunities and filling existing vacancies, and recognizing changing opinions on body art and body art establishments.

The majority of the Board asked to move forward with Body Art amendments by correcting the use to the J3 use, and making it by-right in the B2, HMOD1 and the four VCOD villages (but not allow in the B1 and AED). Prior to finalizing the definitions, the Board wanted staff to ask the Health Department whether body piercing is allowed in the Town of Yarmouth.

- h. **Micro-Brews:** Kathy Williams noted further discussions with Mark Grylls, Building Commissioner regarding simple modifications to allow micro-breweries in the B1/B2 zoning district. This could be accomplished by adding a note to the Use Table under the B1/B2 districts for Use Manufacturing E1 – Food & kindred products as follows:

*52. Except “yes” for Micro Brew Pubs or Ale Houses where the product is manufactured and sold for consumption on-site and not for off-site distribution.*

After a brief discussion, the Board wanted to move forward with this amendment.

2. **Cape Cod Commission (CCC) Development of Regional Impact (DRI) Review:** Continued discussion on 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 hearing was continued to August 11<sup>th</sup> due to the late submittal of the attached supplemental information. Kathy Williams gave an overview of the information noting the additional photo simulations (one from Forest Road and one in the parking lot behind McDonalds); two cell tower camouflage options (“Mono Pine” and “Bell Tower”); the applicants analysis of different tower locations, heights, and issues with concealed monopoles; alternatives review; and revised plans. Kathy Williams indicated that the review of the technical data by the peer reviewer, Isotrope Wireless, will be needed in order to evaluate the information from the applicant regarding location, height and monopoles.

The Planning Board had a general discussion feeling that the height of the tower needs to be lowered, need to improve the camouflage aesthetics which were lacking in the alternatives provided, and retain vegetation which appears to be impacted more by the revised alternatives. Staff will prepare some draft remarks for the Planning Board and hopefully have information from Isotrope Wireless for the meeting on August 4<sup>th</sup>, prior to the Hearing on August 11<sup>th</sup>.

3. **Community Visioning Presentation:** Kathy Williams noted the recent feature article in the Register, an upcoming code red message as well as additional outreach through social media, town website, constant contact, boards/committees and various civic and town organizations.
4. **Meeting Minutes:** July 7<sup>th</sup> minutes deferred to next meeting.
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. **Library Planning Committee (LPC):** Will Rubenstein noted that the LPC made a recent presentation to the Board of Selectmen.
- b. **Middle School Building Committee:** Will Rubenstein noted the progress being made for the construction of the new middle school and that further discussions are being held on field allocations now that this would be a shared campus.
- c. **Community & Economic Development Committee (CEDC):** Joanne Crowley noted that the CEDC met on 7/20 for further discussions on Open Cape fiber and improving broadband in town.

7. **Board Member Items:** Susan Brita inquired about the status of the Great Island Plaza project. Mark Grylls noted he had recently heard they are looking at restarting the project with the application for grant funding.

8. **Correspondence:** Attachments noted below were sent to the Planning Board via e-mail.

9. **Staff Updates:** None.

10. **Upcoming Meetings:**

- a. August 4, 2021
- b. August 18, 2021

11. **Adjournment: VOTE:** On a motion by Tom Baron, seconded by Will Rubenstein, the Planning Board voted unanimously (5-0) to adjourn at 7:40 PM.

**ATTACHMENTS:**

- **July 21, 2021 Agenda**
- **Potential Zoning Amendments:** July 16, 2021 Memo from Planner with Draft #1 Classes of Districts, dated July 14, 2021; Draft #1 Employee Housing, dated July 16, 2021; Draft #1 Signs, dated July 16, 2021; and Draft #1 Body Art Establishments, dated July 16, 2021; Town of Wellfleet Rules & Regulations Regarding the Operation of Food Trucks, and July 21, 2021 e-mail from Kathy Williams regarding micro-brews..
- **Blue Sky Tower DRI:** Planner Examples of camouflaged cell towers. Supplemental Photo Representations from the Applicant and link to full supplemental information on the Town Website: <https://www.yarmouth.ma.us/AgendaCenter/ViewFile/Agenda/07212021-2183>
- **Draft Meeting Minutes:** July 7, 2021
- **Miscellaneous Correspondence:**
  - ZBA Agenda for July 22, 2021
  - Conservation Commission Agenda for July 15, 2021
  - Barnstable Hearing Notices for July 26, 2021
  - July 19, 2021 e-mail from Brian McGowan regarding boat storage

**Approved on \_\_\_\_\_:**

**On a motion by \_\_\_\_\_, and seconded by \_\_\_\_\_, the Planning Board voted (?-?) to approve the meeting minutes of July 21, 2021.**