

Town of Yarmouth

MINUTES OF THE PLANNING BOARD MEETING OF  
June 5, 2019

The Yarmouth Planning Board held a Business Meeting at 5:30 p.m. on Wednesday June 5, 2019 in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

**Planning Board Present:** Brad Goodwin, Tom Roche, Norman Weare, Lee Rowley, and Tom Baron

YARMOUTH TOWN CLERK

**Planning Board Absent:** Joanne Crowley and Chris Vincent

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

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**Guest:** Robin Wilcox of Sweetser Engineering, Gail Wilcox and Tanya Daigneault

Chairman Brad Goodwin opened the meeting at 5:30 PM.

1. **2816C - Preliminary Subdivision** – Tanya Daigneault, owner/applicant, to create a two lot subdivision at 8 Old Hyannis Road, Yarmouth Port, Assessor Map 104, Parcel 9.3. The existing parcel is 2.82 acres and is located in the R40 zoning district and the Aquifer Protection District (APD).

Robin Wilcox, of Sweetser Engineering, gave an overview of the project. He noted that a Special Permit had been issued by the Zoning Board of Appeals for a family-related apartment on the property. Now that the apartment is no longer being used as a family-related apartment, there is a violation of the zoning bylaw with two dwelling units on a single property. Mr. Wilcox noted that an Approval Not Required (ANR) Plan was not possible to divide the parcel into separate lots for each dwelling unit as he could not meet the minimum frontage of 150', or the criteria for reduced frontage with a 150'x150' box within 500' of the street. To address this issue, his client is proposing to move the street closer to the square through the creation of a subdivision. The application included two options, with Option 1 showing an "eyebrow" and Option 2 showing a short stub. The applicant is not proposing to build any road or utilities, and is requesting to be waived from all construction requirements of the subdivision regulations. Mr. Wilcox noted that the existing driveway services the property as well as the adjacent lot at 16 Old Hyannis Road through a verbal agreement between the property owners. There is also a small section of the driveway to 8 Old Hyannis Road located on the corner of the property of 16 Old Hyannis Road.

Chairman Brad Goodwin noted that although the plans give the impression of creating frontage, without any construction, no frontage is actually being created so it is not a true subdivision. He felt that a lot of staff time was wasted commenting on a preliminary subdivision when the applicant needs to go to the ZBA. At this point, Mr. Goodwin made a motion to DENY Preliminary Subdivision 2816C, which was seconded by Tom Roche, and opened for discussion.

There was various discussion from the Board members. Tom Roche noted that the proposed subdivision goes against the Rules & Regulations Governing the Subdivision of Land which were specifically crafted to not be too stringent. Tom Baron noted that the side yard setbacks to the new property line should be shown. He also noted that a proper driveway entrance would require some construction and could locate the driveway off the abutting property. Lee Rowley questioned whether the preliminary subdivision could be denied with prejudice. Brad Goodwin noted that the application could be withdrawn without prejudice or could call for a vote. Mr.

Wilcox noted that he needed a denial to go before the ZBA to show hardship. Kathy Williams, Town Planner, noted that the Planning Board may view the subdivision differently if the applicant were proposing to construct a road and utilities to create a true subdivision. The issue appears to be the creation of the right-of-way without the creation of the actual road and utilities. Kathy Williams also requested that the motion be amended to include the reasons for denial.

**VOTE: On a motion by Tom Roche, seconded by Brad Goodwin, the Planning Board voted (5-0) to approve the amended motion to DENY the Preliminary Subdivision Plan for Tanya Daignealt as shown on the plan entitled *Preliminary Plan of Land in Yarmouth Port, Massachusetts as prepared for Tanya Daigneault*”, dated April 29, 2019, prepared by Sweetser Engineering and stamped by Robin Wilcox, Registered Land Surveyor. The Preliminary Plan as proposed is not consistent with the intent and purpose of the Subdivision Control Law and would require the waiving of most if not all of the required improvements outlined in the Town of Yarmouth Rules & Regulations Governing the Subdivision of Land. The plan creates illusory frontage for the sole purpose of meeting Zoning Bylaw Section 203.2.1 to allow for the creation of two lots. Relief from the Zoning Bylaw requirements should be sought through the proper authority, which is the Zoning Board of Appeals, and not through the creation of a faux subdivision.**

2. **Recap of 2019 Annual Town Meeting (ATM):** The Planning Board had a brief discussion of the Zoning articles from the 2019 ATM, noting the failure of the Accessory Dwelling Unit (ADU) Article, which may have been due to a lack of consensus with some people feeling it went too far and some feeling it did not go far enough. The Planning Board has no plans to bring another ADU Article to Town Meeting anytime in the near future.
3. **Meeting Minutes:**
  - a. **May 1, 2019:** On a motion by Tom Roche, seconded by Norm Weare, the Planning Board voted (4-0-1) to approve the meeting minutes of May 1, 2019 with Brad Goodwin, Tom Roche, Norm Weare, and Tom Baron voting in favor, and Lee Rowley abstaining.
  - b. **May 4, 2019 – Annual Town Meeting:** On a motion by Tom Baron, seconded by Norm Weare, the Planning Board voted (4-0-1) to approve the meeting minutes of May 4, 2019 with Brad Goodwin, Tom Roche, Norm Weare, and Tom Baron voting in favor, and Lee Rowley abstaining.
4. **Board of Appeals Agenda & Decisions:** Attached ZBA Agendas and Decisions sent to Planning Board members via e-mail.
5. **Committee Updates from Board Members:**
  - a. **Water Resources Advisory Committee (WRAC):** Lee Rowley gave a brief update on the WRAC committee's work including updates on the regional agreement legislation, funds for design/engineering, and the public meeting scheduled for June 24<sup>th</sup> at 6 PM at the Cultural Center of Cape Cod.
6. **Board Member Items:** None.
7. **Correspondence:** See attachments.
8. **Staff Updates:** Kathy Williams, Town Planner gave a brief update on the status of the following:
  - a. **Bass River Bridge:** Staff and some stakeholders will be meeting with MassDOT and their design consultant on June 6<sup>th</sup> to review additional options for aesthetic improvements to the new Bass River Bridge.

- b. Municipal Vulnerability Preparedness (MVP) Plan: Final MVP Report has been completed and is on the Town website. The report will be submitted to the state for approval to make Yarmouth an MVP Community.
- c. Parkers River Bridge: The bridge project will be going out to bid in June with a bid opening in July and start of construction anticipated for after Labor Day.
- d. Route 6A Corridor Improvement Public Meetings: Gave a brief update on the three public presentations conducted in May on potential Route 6A Corridor Improvements. There was a brief discussion from board members who were present at the meetings where there was a wide range of feedback given on the conceptual plans.

9. **Upcoming Meetings:**

- a. June 19, 2019
- b. July 3, 2019

10. **Adjournment: VOTE:** On a motion by Tom Roche, seconded by Norm Weare, the Planning Board voted unanimously (5-0) to adjourn at 6:05 PM.

**ATTACHMENTS:**

- **June 5, 2019 Agenda**
- **Preliminary Subdivision Plan 2816C:** May 31, 2019 Memo from Kathy Williams, Town Planner, with the following attachments:
  - May 17, 2019 e-mail from Robin Wilcox of Sweetser Engineering (supplemental information)
  - Written Staff Comments from the following:
    - Building Department e-mail dated May 22, 2019 from Jim Brandolini, Deputy Building Commissioner
    - Engineering and Water Division Memo Dated May 28, 2019 from Amanda Ruggiero, Town Engineer
    - Health Department Memo dated May 29, 2019 from Amy von Hone, Assistant Director
    - Fire Department e-mail dated May 30, 2019 from Lt. Scott Smith and e-mail dated Jun 3, 2019 from Captain Kevin Huck
    - Conservation Division e-mail dated May 21, 2019 from Kelly Grant, Conservation Administrator
  - Existing Septic Plan, dated July 2, 2014
  - Form B
  - 2816C - Preliminary Plan Option 1 (eyebrow ROW), dated April 29, 2019, Sweetser Eng.
  - 2816C – Preliminary Plan Option 2 (stub ROW), dated April 29, 2019, Sweetser Eng.
- **Draft Meeting Minutes:** May 1, 2019 and May 4, 2019
- **Miscellaneous Correspondence:**
  - ZBA Agendas for May 23, 2019 and June 13, 2019
  - ZBA Decisions 4792, 4798 and 4803
  - Barnstable Planning Board Hearing Notice – May 13, 2019

**Approved on July 17, 2019:**

**On a motion by Norm Weare, seconded by Tom Baron, the Planning Board voted (5-0-1) to approve the meeting minutes of June 5, 2019 with Brad Goodwin, Tom Roche, Norm Weare, Lee Rowley and Tom Baron voting in favor, and Joanne Crowley abstaining.**