

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:	May 20, 2026
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

Agenda (Topics to be discussed):

1. **[Approval Not Required ANR Plan #2371M](#)**: Trustees of the Kings Way Condominium Trust; property located on the north side of Nottingham Drive, Yarmouth Port, MA; Assessor Map 142, Parcel 17; Zoning District R40. The ANR creates a non-buildable lot for conveyance purposes and includes modifications to ANR Plan 2371L to meet Land Court filing requirements.
2. **[Short Term Rentals \(STR\)](#)**: Discussions on potential amendments to Zoning Bylaw Section 418 – Short Term Rentals based on the UMass Donahue STR Study and input from the Select Board.
3. **[Commonwealth of Massachusetts Bond Bills and FY 27 Appropriation Budget](#)**: Review and discussion on the Environmental Bond Bill, the Economic Bond Bill (Mass Wins Act), and FY 27 Appropriations bill (Outside Sections) that relate to Zoning.
4. **[Seasonal Communities Designation](#)**: Review and discussion on additional information received related to Seasonal Communities Designation and zoning requirements.
5. **[Mattacheese Utilization Committee \(MUC\) Project](#)**: Updates on the status of the MUC project.
6. Meeting Minutes
7. Board of Appeals Agenda & Decisions
8. Committee Updates from Board Members
9. Board Member Items
10. Correspondence
11. Staff Updates
12. Other Topics not reasonably anticipated 48 hours in advance of the meeting
13. Upcoming Meetings:
 - a. June 3, 2026
 - b. June 17, 2026
14. 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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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
From: Kathy Williams, Town Planner
Date: May 15, 2026
Subject: Planner Report for ANR Plan #2371M
Kings Way off Nottingham Drive (north side)
Assessor Map 142, Parcel 17

Please find attached Application Form A and ANR Plan #2371M submitted by the Trustees of the Kings Way Condominium Trust for a portion of their property located off Nottingham Drive, Yarmouth Port, MA, Assessor Map 142.17. As you may recall, the Kings Way Condominium Trust came before the Planning Board on January 21, 2026 to approve ANR Plan #2371M to carve off a 3.14-acre lot of land north of Nottingham Drive to sell to the Town of Yarmouth as open space. As outlined in the attached May 14, 2026 Memo from Attorney Michael Kennefick, the previously approved ANR Plan 2371L did not fully meet the requirements of the Land Court and the attached slightly modified ANR Plan needs to be endorsed by the Planning Board. One other difference between the plans is the lack of reference to the Special Permit 5205 Book and Page number included on the original ANR plan. As this particular property is being sold to the Town it is less critical that this information be on the ANR plan and it is important to complete the sale prior to June 1st due to grant requirements.

The submission was complete and included the required fee, Form A, ANR Plan, and the appropriate number of copies. The ANR Plan is entitled, "*Plan of Land, Assessors Parcel 142-17, Nottingham Drive & Hockanom Road, Yarmouth, Massachusetts*". The Plan was prepared by Robert E. Gugliotta, PLS, Merrill Engineers and Land Surveyors, and is dated and stamped May 8, 2026.

This application was received on May 15, 2026, and a decision is required by June 4, 2026 to remain within the 21-day statutory requirements. This project has been placed on the Planning Board Meeting Agenda for May 20, 2026.

Planner Suggestion: Recommend the Planning Board make a motion to endorse ANR Plan #2371M prepared by Merrill Engineers and Land Surveyors, and dated and stamped May 8, 2026.

Attachments:

- May 14, 2026 Memo from Attorney Michael Kennefick, Moriarty Bielan & Gamache, LLC
- Form A
- 2371M ANR Plan

TO: Planning Board

FROM: Michael J. Kennefick
Moriarty Bielan & Gamache, LLC

RE: Narrative explaining the request and reasons for endorsement of Revised Plan

DATE: May 14, 2026

Below is a summary of the request and reasons for endorsement of the plan submitted herewith, entitled “Plan of Land, Assessors Parcel 142-17, Nottingham Drive & Hockanom Road, Yarmouth, Massachusetts,” prepared by Merrill Engineers and Land Surveyors for Kings Way Trust, c/o Moriarty Bielan and Gamache, LLC, One Adams Place, 859 Willard Street, Suite 440, Quincy, MA 02169, and dated May 8, 2026 (the “Revised Plan”).

The subject lot is located off of Nottingham Drive and shown as a portion of Lot 55 on Land Court Plan 34279. It consists of 3.14 acres, more or less, and is part of Parcel 17 on the Town of Yarmouth Assessor's Map 142. The Lot is located in the R-40 Zoning District and is part of a larger 194-acre property that has been developed in accordance with a Special Permit and certain Variances issued in 1975.

The subject lot is owned by George Delaney, Sandy Ulrich, Steven Day, Thomas Holland, John Rogol, Peter Marinelli, David Young, Norman Michaud and Gary Buckler, Trustees of the Kings Way Condominium Trust, u/d/t dated May 12, 1987, filed with the Registry District as Document No. 433670, as affected by Amendment No. 2, dated September 25, 2001, filed with said Registry District as Document No. 847992, as further affected by Amendment No. 3, dated November 25, 2008, filed with said Registry District as Document No. 1105817, as further affected by Amendment, dated May 18, 2023, filed with said Registry District as Document No. 1481780, as amended, by virtue of a deed from Anthony D. Green, Joseph R. Valle and Donald K. Kurson, as Trustees of the Kings Way Condominium Trust, dated March 18, 1988, filed with said Registry District as Document No. 454932, creating Certificate of Title No. 136382.

As the Board is aware, the Kings Way Trust has entered into a Purchase & Sale Agreement to sell the land to the Town of Yarmouth for use as open space, which required, among other things, ANR endorsement from this Board, as well as the filing of a subdivision plan with the Land Court. To meet closing deadlines, the Trust elected to seek endorsement from this Board (received in January 2026) while simultaneously filing its subdivision plan with the Land Court.

The Land Court completed its review and has approved the Plan; however, it required that some minor modifications be made to the Plan for its recording. The modifications do not involve any change to the size or shape of the lot but, instead, included: (1) slight change to the wording of Note 3, adding the words "a part of" after the word "from"; (2) addition of all dates as also shown on the Mylar regarding the 2006 Land Court Survey Certification to the Survey Notes; (3) per Section 3.2.5 from the 2006 Land Court Manual of Instructions, monuments shown perpendicular to the lot lines.

Once the Revised Plan is endorsed by this Board, it will be delivered to the Land Court for recording.

We look forward to meeting with the Board again on May 20, 2026. Please let us know if you need anything further from us prior to the meeting.

YARMOUTH TOWN CLERK RE
MAY 15 '26 AM 10:10



PLANNING BOARD
TOWN OF YARMOUTH,
MASSACHUSETTS
APPLICATION FOR ENDORSEMENT
OF PLAN
APPROVAL NOT REQUIRED

<i>For Office Use Only</i>	
Reference No.	<u>2371M</u>
Hearing Date:	<u>5/20/26</u>
<input checked="" type="checkbox"/> 3 signed copies of Form A	
<input checked="" type="checkbox"/> Fee (\$250 <= 3 lots, then \$75 per lot)	
<input checked="" type="checkbox"/> Original plan and digital file	
<input checked="" type="checkbox"/> 10 copies of plan	

FORM A

Date: May 13, 2026

To the Yarmouth Planning Board:

The undersigned, believing the accompanying plan of property in the Town of Yarmouth does not constitute a subdivision within the meaning of the Subdivision Control Law, requests a determination and endorsement by the Planning Board that approval under the Subdivision Control Law is not required.

Deed to the property is recorded in the Barnstable County Registry of Deeds, Book _____, Page _____ or registered in the Barnstable Land Court Certificate of Title 136382 as shown on the Town of Yarmouth Assessor's Map number _____, parcel _____.

Owner:

Applicant:

See attached

Same

Print name

Print name:

Michael J. Kennefick 

Signature

Signature

Moriarty Bielán & Gamache LLC
859 Willard Street, Suite 440

Quincy, MA 02169

Address

Address

Surveyor:

57159

Robert Gugliotta, PLS

Registration No.

Print name

382 Court Street

Plymouth, MA 02360

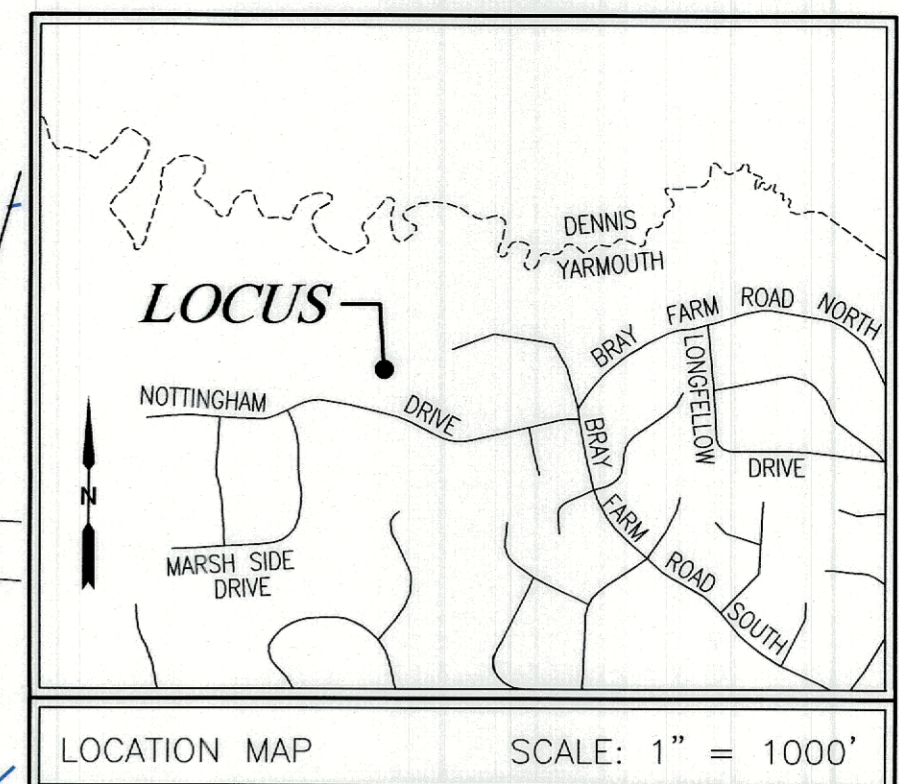
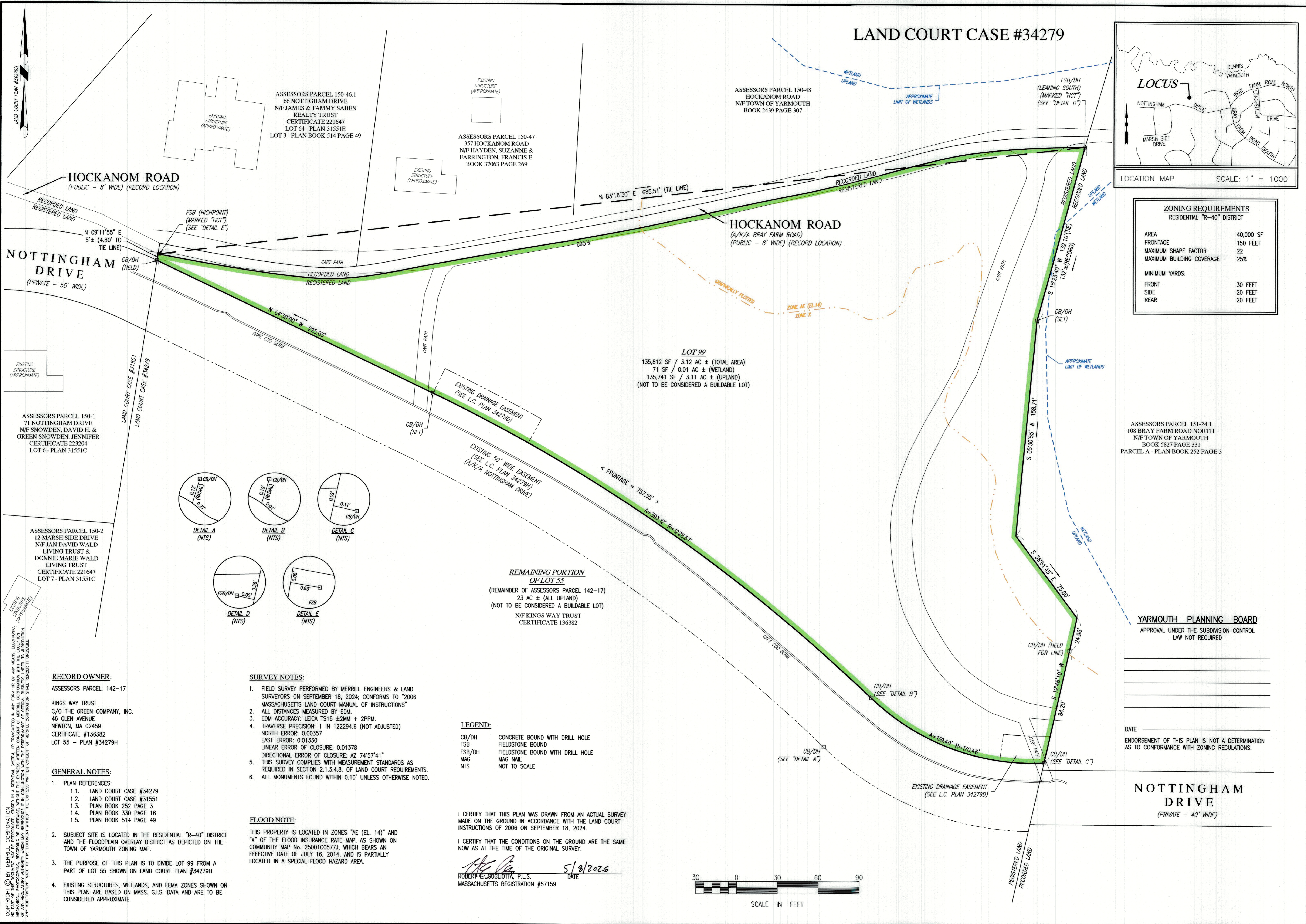
Address

Owner:

George Delaney, Sandy Ulrich, Steven Day, Thomas Holland, John Rogol, Peter Marinelli, David Young, Norman Michaud and Gary Buckler, Trustees of the Kings Way Condominium Trust, u/d/t dated May 12, 1987, filed with the Registry District as Document No. 433670, as affected by Amendment No. 2, dated September 25, 2001, filed with said Registry District as Document No. 847992, as further affected by Amendment No. 3, dated November 25, 2008, filed with said Registry District as Document No. 1105817, as further affected by Amendment, dated May 18, 2023, filed with said Registry District as Document No. 1481780, as amended, by virtue of a deed from Anthony D. Green, Joseph R. Valle and Donald K. Kurson, as Trustees of the Kings Way Condominium Trust, dated March 18, 1988, filed with said Registry District as Document No. 454932, creating Certificate of Title No. 136382; Certificate of Appointment and Acceptance of Trustees filed with the Registry District as Document No. 1,541,434.

LAND COURT CASE #34279

merrillinc.com

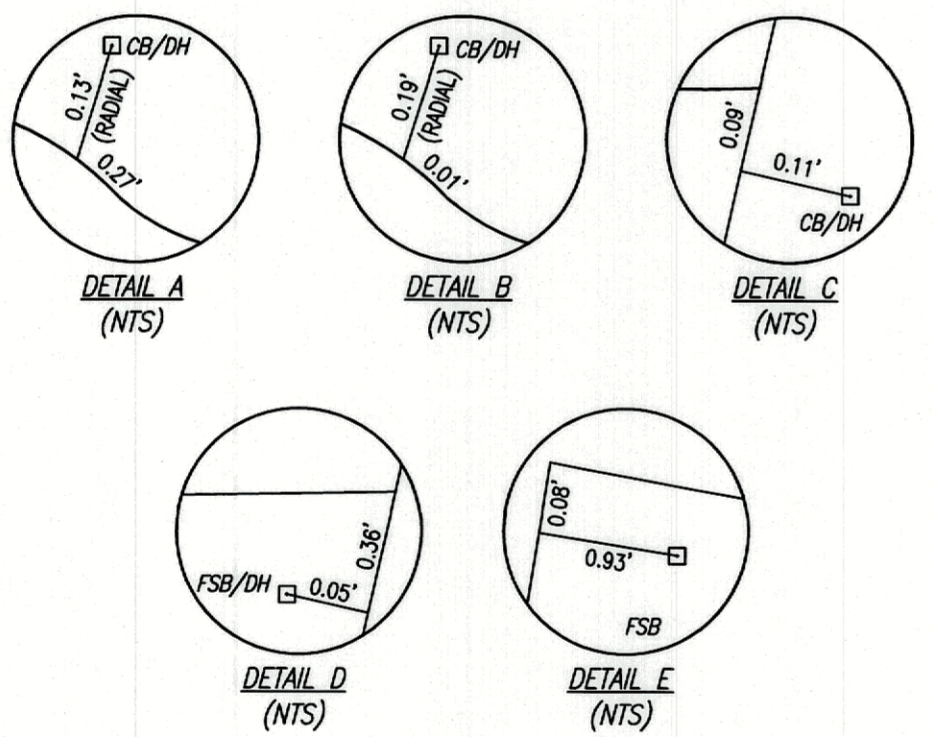


ZONING REQUIREMENTS
RESIDENTIAL "R-40" DISTRICT

AREA	40,000 SF
FRONTAGE	150 FEET
MAXIMUM SHAPE FACTOR	22
MAXIMUM BUILDING COVERAGE	25%
MINIMUM YARDS:	
FRONT	30 FEET
SIDE	20 FEET
REAR	20 FEET

LOT 99
135,812 SF / 3.12 AC ± (TOTAL AREA)
71 SF / 0.01 AC ± (WETLAND)
135,741 SF / 3.11 AC ± (UPLAND)
(NOT TO BE CONSIDERED A BUILDABLE LOT)

REMAINING PORTION OF LOT 55
(REMAINDER OF ASSESSORS PARCEL 142-17)
23 AC ± (ALL UPLAND)
(NOT TO BE CONSIDERED A BUILDABLE LOT)
N/F KINGS WAY TRUST
CERTIFICATE 136382



YARMOUTH PLANNING BOARD
APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED

DATE _____
ENDORSEMENT OF THIS PLAN IS NOT A DETERMINATION AS TO CONFORMANCE WITH ZONING REGULATIONS.

RECORD OWNER:
ASSESSORS PARCEL: 142-17
KINGS WAY TRUST
C/O THE GREEN COMPANY, INC.
46 GLEN AVENUE
NEWTON, MA 02459
CERTIFICATE #136382
LOT 55 - PLAN #34279H

- SURVEY NOTES:**
- FIELD SURVEY PERFORMED BY MERRILL ENGINEERS & LAND SURVEYORS ON SEPTEMBER 18, 2024; CONFORMS TO "2006 MASSACHUSETTS LAND COURT MANUAL OF INSTRUCTIONS"
 - ALL DISTANCES MEASURED BY EDM.
 - EDM ACCURACY: LEICA TS16 ±2MM + 2PPM.
 - TRAVERSE PRECISION: 1 IN 122294.6 (NOT ADJUSTED)
NORTH ERROR: 0.00357
EAST ERROR: 0.01330
LINEAR ERROR OF CLOSURE: 0.01378
DIRECTIONAL ERROR OF CLOSURE: AZ 74°57'41"
 - THIS SURVEY COMPLIES WITH MEASUREMENT STANDARDS AS REQUIRED IN SECTION 2.1.3.4.8. OF LAND COURT REQUIREMENTS.
 - ALL MONUMENTS FOUND WITHIN 0.10' UNLESS OTHERWISE NOTED.

LEGEND:

CB/DH	CONCRETE BOUND WITH DRILL HOLE
FSB	FIELDSTONE BOUND
FSB/DH	FIELDSTONE BOUND WITH DRILL HOLE
MAG	MAG NAIL
NTS	NOT TO SCALE

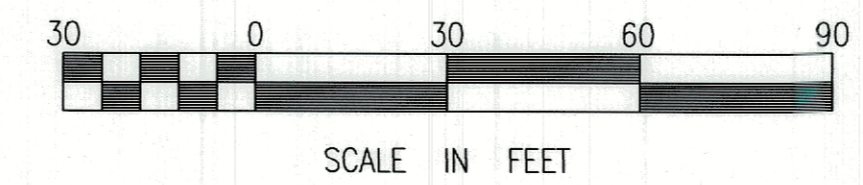
- GENERAL NOTES:**
- PLAN REFERENCES:
1.1. LAND COURT CASE #34279
1.2. LAND COURT CASE #31551
1.3. PLAN BOOK 252 PAGE 3
1.4. PLAN BOOK 330 PAGE 16
1.5. PLAN BOOK 514 PAGE 49

FLOOD NOTE:
THIS PROPERTY IS LOCATED IN ZONES "AE (EL. 14)" AND "X" OF THE FLOOD INSURANCE RATE MAP, AS SHOWN ON COMMUNITY MAP No. 25001C0577J, WHICH BEARS AN EFFECTIVE DATE OF JULY 16, 2014, AND IS PARTIALLY LOCATED IN A SPECIAL FLOOD HAZARD AREA.

I CERTIFY THAT THIS PLAN WAS DRAWN FROM AN ACTUAL SURVEY MADE ON THE GROUND IN ACCORDANCE WITH THE LAND COURT INSTRUCTIONS OF 2006 ON SEPTEMBER 18, 2024.

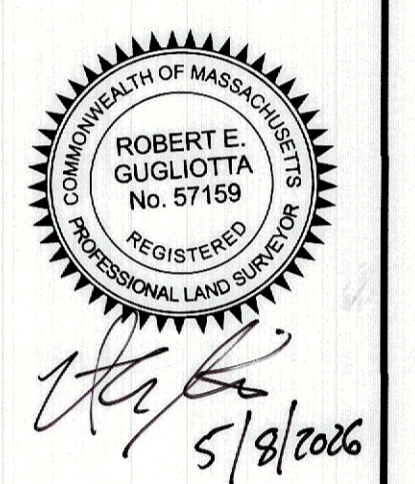
I CERTIFY THAT THE CONDITIONS ON THE GROUND ARE THE SAME NOW AS AT THE TIME OF THE ORIGINAL SURVEY.

Robert E. Gugliotta
ROBERT E. GUGLIOTTA, P.L.S.
MASSACHUSETTS REGISTRATION #57159
5/8/2026
DATE



REVISIONS:

DRAWN BY:
REG
DESIGNED BY:
CHECKED BY:
BKL
SCALE:
1" = 30'
STAMP:



427 Columbia Road
Hanover, MA 02339
781-826-9200
362 Court Street
Plymouth, MA 02360
508-746-6060
Marine Division:
28 Union Street
Plymouth, MA 02360
508-746-6060
448 N. Falmouth Hwy, Unit A
North Falmouth, MA 02556
508-563-2183

PROJECT #:
24-099

PROJECT:
PLAN OF LAND
ASSESSORS PARCEL 142-17
NOTTINGHAM DRIVE &
HOCKANOM ROAD
YARMOUTH, MASSACHUSETTS

CLIENT:
KINGS WAY TRUST
C/O MORARY BIELAN &
GAMACHE LLC
ONE ADAMS PLACE
859 WILLARD ST, STE 440
QUINCY, MA 02169

DRAWING PATH:
H:\24-099\SURVEY\DWG\24-099 LC.DWG
DATE:
MAY 8, 2026

APPROVAL NOT REQUIRED PLAN

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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
From: Kathy Williams, Town Planner
Date: May 14, 2026
Subject: Short-Term Rentals (STR)

The February 2026 UMass Donahue Institute STR Report analyzed the affects of STRs on the year-round housing market, as well as impacts to motels and quality of life for our residents. The report was presented to the Select Board on March 3, 2026.

Some Key Takeaways:

1. STRs appear to have limited impact on availability of year-round housing and are not a significant driver in our year-round housing market.
2. Most STR properties are second homeowners who utilize their properties for a percentage of the year and would not want to lose this availability by renting year-round. Available data did not show a significant amount of investor ownership, but the data was limited and this issue may become a concern in the future.
3. Although overall housing units have increased, the percentage of housing that is seasonally vacant has remained stable over the past 30 years. This indicates there has not been a substantive conversion of year-round units to seasonal so far.
4. Percentage of STR to overall amount of housing stock is in the 5-8% of our 17,550 housing units, depending on the registration data for STRs (1,438 Dept of Revenue and 933 Health Dept). This is much lower than other tourist communities where STRs have clearly impacted year-round housing and stricter regulations were implemented.
5. Yarmouth benefits from the STR and Rooms Excise Taxes from motels with 75% of STR taxes going to help fund wastewater. The following updated table shows the variations in excise tax from Traditional Lodging and STRs over the past five fiscal years. FY25 is the first year where STR excise taxes decreased while traditional lodging rooms taxes increased. Motels/hotels have worked hard to reinvent and market themselves in a different way to try to retain market share.

Local Option Room Tax Revenue by Type of Lodging, (corrected with input from Accounting)

Lodging Type	FY2021	FY2022	FY2023	FY2024	FY 2025
Traditional Lodging	\$2,090,056	\$3,628,820	\$3,462,617	\$3,334,264	\$3,498,133
Short-Term Rental	\$1,342,732	\$1,514,942	\$1,739,840	\$2,113,285	\$1,890,672
Total	\$3,432,788	\$5,143,762	\$5,202,457	\$5,447,549	\$5,388,805

6. Quality of life concerns noted in the Report include traffic, noise, overcrowding, parking, concerns about loss of community, fear of investor proliferation, uncertainty on whom to contact at the Town for enforcement, and desire for easier access to information on STRs including local contact information.

At the March Select Board meeting, the Board emphasized implementing strategies that incentivize and preserve year-round housing rather than stricter regulations. Strategies could include initiatives like Lease to Locals programs, subsidizing year-round deed restrictions, implementing a residential tax exemption, and offering assistance for new landlords.

Some things for Discussion:

1. Complaints & Enforcement: Building and Health do not receive a large number of STR complaints but are able to readily address them when they are made aware. To facilitate this, staff can provide a clear outline of the process of lodging a written STR complaint and compile an annual list of registered STRs with 24-hour contact information (report from OpenGov) for posting on the Health Department webpage. As many issues with STRs occur outside of normal business hours, staff will coordinate with the Police Department to ensure incidents related to STRs get to the Building/Health Departments for enforcement.
2. Simple Zoning Changes: Some simple changes could be made to the Zoning Bylaw as outlined in the attached Draft #1, May 14, 2026.
 - a. Ineligible Units: Expand Ineligible Units to include Accessory Dwelling Units and Protected Accessory Dwelling Units, and dwelling units developed under the VCOD, ROAD and HMOD1 optional Overlay Districts. We could also consider including properties owned by corporations/investors as ineligible units (see further discussion below).
 - b. Inspections: Modify the Inspections section to reflect recent changes in the Building Code which now require annual inspections and issuance of a Certificate of Occupancy for STRs. This is in addition to the Health Department Rental Certificate. Location of posted certificates to be readily visible from the exterior of the dwelling.
 - c. Eliminate the Sunset Clause: Delete the sunset clause in its entirety.
3. Limiting Investment Properties: To get ahead of the potential for commercial investors, consider limiting those types of properties, or banning them if they are solely commercial in a residential neighborhood. The Town of Falmouth recently approved the attached General Bylaw for the Operation of Short-Term Rentals. They have put limits on the other types of ownership for STRs and prohibited Corporate Ownership.
4. General Bylaw vs Zoning Bylaw: Staff is coordinating with Town Counsel regarding whether it is more prudent to include STR regulations in a General Bylaw rather than Zoning Bylaw; as well as the status of grandfathering the use when there is a Sunset Clause in place.

ATTACHMENTS:

- Short Term Rentals Draft #1, dated May 14, 2026
- Town of Falmouth Article 17 – Operation of Short-Term Rentals

TOWN OF YARMOUTH ZONING BYLAW
SHORT-TERM RENTALS
Effective 4/30/24 (note sunset clause)

1. Short-Term rentals are allowed by-right (denoted as a “yes”) in the following zoning districts if they meet the criteria outlined in Section 418 of the [Zoning Bylaw](#). A “no” indicates the use is prohibited.

202.5 Use Regulation Table	Res.	RS-40	B1 ²¹	B2 ²¹	B3 ²¹	RMDOD ⁴⁴	MU	APD	AED	MOD	HMOD1	HMOD2	VC1	VC2	VC3	VC4
A. RESIDENTIAL																
<i>A13 Short-Term Rentals</i> ⁵⁴	yes	yes	yes	yes	no	no	yes	yes	no	yes	no	no	no	no	no	no

Note 54. Short-Term Rentals may be allowed by-right if they meet the criteria outlined in Section 418.

2. Short-Term Rentals are subject to the conditions outlined in Section 418 of the zoning Bylaw.

418 SHORT-TERM RENTALS

418.1 Purpose: To provide for the orderly operation of short-term rentals for residential properties that balance private, neighborhood and public interests, and will:

1. Protect and maintain the residential character of existing neighborhoods.
2. Protect public health and safety.
3. Enable residents to better afford to live here, maintain their properties and contribute to the community.
4. Ensure the continued revenues to the Town from the short-term rental excise tax.

418.2 Definitions:

SHORT-TERM RENTALS (STR) - defined as owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, boarding or lodging house, or guesthouse, inn or bed and breakfast establishment, where at least one room or unit is rented to an occupant or occupants for 1-31 consecutive days at a time; and all accommodations are reserved in advance. All STRs shall be transient in nature and not rented to the same occupant month to month.

418.3 Ineligible Units: The following are not eligible to be rented as STRs.

1. Dwellings designated as income restricted or are subject to affordability covenants.
2. ~~Accessory a~~ Accessory Apartments, Accessory Dwelling Units, and Protected Use Accessory Dwelling Units.
- ~~2-3.~~ Dwellings developed under the VCOD, ROAD, and HMOD1 Overlay Districts.
- ~~3-4.~~ Dwellings subject to any outstanding building, sanitary, zoning or fire code violations.

418.4 Registration & Inspections:

1. All short-term rentals shall be registered and inspected annually through the Yarmouth Health Department and/or Building Department in accordance with

General Bylaw Chapter 108 – Occupancy of Buildings and 780 CMR – MA State Building Code, and shall adhere to all ~~their~~ health and safety requirements, including occupancy limitations based on ~~inspections~~ 310 CMR 15.000 – Septic Systems (Title 5) requirements.

2. Rental ~~e~~Certificates and Certificate of Inspection shall be displayed on the property in a prominent location readily visible from the exterior of the dwelling and shall include 24-hour local contact information.
3. The Town reserves the right to post rental locations and contact information on the Town Website per MGL Ch. 64G, Section 14.

418.5 General Provisions:

1. Trash Removal: All household trash shall be removed from the premises immediately after occupancy is concluded, and at a minimum once per week.
2. Parking: Adequate on-site parking shall be provided, with a minimum of one space/bedroom. There shall be no parking on lawns, no overnight street parking, and no street parking that impedes traffic or traffic safety at any time.
3. Duration: Renting for less than two (2) consecutive nights is prohibited.
4. Type of Rentals:
 - a. STRs are for Residential uses only. No large scale events including but not limited to weddings, corporate events, class/family reunions, and photo shoots.
 - b. No events that include tents or amplified music.
 - c. Shall not adversely affect the residential character of the neighborhood nor interfere with any reasonable person’s enjoyment of their residence.
5. Pets: Adherence to any and all state and local regulations regarding pets.
6. Use of RVs, campers or sleeping tents is prohibited.
7. Short Term Rentals shall meet all local and state regulations, including but not limited to building and fire codes, health codes, water supply and wastewater disposal.

~~418.6 Sunset Clause: Section 418—allowing Short Term Rentals, along with corresponding provisions of A13 of Section 202.5—Use Regulation Table, shall expire, and its terms shall no longer remain in effect as of 11:59 PM, November 30, 2026. During this time period, the Town will undertake a more detailed planning process related to Short Term Rentals. Any STR use that complies with the terms of this bylaw shall be permitted to continue up to and including the sunset of this bylaw, at which time it shall lapse.~~

Falmouth 2026 ATM Warrant - STR Article 17

fiscal year beginning July 1, 2026. Or do or take any other action on the matter. On request of the Select Board.

ARTICLE 16: To see if the Town will vote to accept on behalf of the Town of Falmouth, the Seasonal Community Designation as provided for in General Laws Chapter 23B, Section 32(b). Or do or take any other action on the matter. On request of the Select Board.

ARTICLE 17: To see if the Town will vote to amend the Code of Falmouth by adding a new section, Chapter 173, Operation of Short-Term Rentals, by adding the following new text:

Chapter 173, Operation of Short-Term Rentals.

1) Purpose and Intent.

This bylaw is enacted to establish an orderly process for identifying, registering and regulating Short-Term Rentals to protect against conditions that cause or create a nuisance and undermine the ability of residents to enjoy their property and the immediate neighborhood, to make the operation of Short-Term Rentals habitable and safe, for residents, to protect the ability of homeowners to rent their property in a reasonable manner, to prevent the corporate and other commercialization of housing for use as Short-Term Rentals, and to inhibit further reduction of the stock of year-round rentals. This bylaw is enacted pursuant to the Home Rule Authority of the Town as well as authority conferred to it by M.G.L. c. 64G § 14.

2) Exemptions to Bylaw.

The provisions of this Short-Term Rental Bylaw shall not apply to:

- a. Non-owner occupied commercial accommodations as defined in Chapter 240 of the Falmouth bylaws; or
- b. A dwelling unit exempt from paying excise fees under M.G.L. c. 64G § 3 due to a total annual rental of not more than 14 days.

3) Definitions.

Owner. Any person who, alone, or severally with others, directly or indirectly, has legal or equitable title or beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee, member or person appointed by the courts. An Owner can be a single person, a marital unit, or a group of people.

Operator. A person or entity who is designated by an Owner to be responsible for the day-to-day operations of the Short-Term Rental and who serves as the local emergency contact person with the Town of Falmouth. Any such person must live within 20 miles from the Short-Term Rental property and be available twenty-four hours per day and seven days per week during rental periods to respond immediately to emergencies and complaints. An Owner may also be an Operator, provided that they meet the other requirements of this paragraph.

Partial Rental. The rental of a portion of a dwelling unit as a Short-Term Rental.

Short-Term Rental. An owner-occupied, tenant-occupied, or non-owner occupied property as defined in M.G.L. c. 64G § 1, including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where:

- a. At least 1 room or unit is rented to an occupant or sub-occupant for a period of 31 consecutive days or less; and
- b. All accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.

Time Share, Fractional and Interval Ownership Unit. Any Dwelling Unit:

- a. Which is owned by a limited liability company, corporation, partnership, or other joint ownership structure;
- b. In which unrelated persons or entities own, sell, purchase or otherwise for consideration create or acquire any divided property interest including co-ownership or fractional or

Falmouth 2026 ATM Warrant - STR Article 17

- divided estates, shares, leaseholds, or memberships;
 - c. Which are subject to, or subsequently bound by any agreement limiting the right or functional ability of interest holders or their designees to occupy or use the property; and
 - d. Which consists of two or more of the following elements:
 - i) Co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are openly advertised, marketed, or offered for sale or which are sold individually at separate times.
 - ii) Maximum or minimum day limits on each interest holder's occupancy or use of the property.
 - iii) Centralized or professional management.
 - iv) Management agreements or fees reflective of interval use or ownership, irrespective of whether the agreement may be cancelled individually or by any party.
 - v) Reservation systems.
- 4) Requirements to Operate a Short-Term Rental.
- a. No dwelling unit or part thereof may be offered or operated as a Short-Term Rental within the Town Falmouth without first obtaining a license from the Town of Falmouth. Licenses may be issued to Owners of dwelling units upon submission and review of a complete application. Incomplete applications will be rejected.
 - b. Term of the license. Licenses shall be valid for a period of two years.
 - c. License Fee. The fee for the license shall be further determined by the Board of Health, or designee, and shall not be waived, discounted or prorated for any reason.
 - d. All Short-Term Rentals shall have a designated Operator.
 - e. Minimum license application requirements. All applications for a license shall include, at a minimum, the following information:
 - i) The names of all Owners
 - ii) Proof of Ownership
 - iii) 24-hour contact information for any Operator, which shall include the name, address, phone number and email address of the Operator
 - iv) Trash and recycling plan
 - v) Parking plan, showing at least one parking spot per bedroom
 - vi) 24-Hour contact information
 - vii) Noise Control and nuisance provisions
 - viii) Description of the rooms or units to be rented
 - ix) Copy of certification of registration in accordance with M.G.L. c. 64G
 - x) Tax ID number for any Limited Liability Company applicant
 - xi) Copy of valid smoke and Carbon Monoxide (CO) detector certificates of compliance, or certification by homeowner acceptable to the Board of Health.
 - xii) Copy of most recent Title V inspection certificate, if applicable
 - xiii) An attestation and certification, made by the applicant, that the information provided in the application is true and accurate and that the dwelling unit is habitable under the law
 - xiv) The Board of Health, or designee, may impose additional license application requirements as the Board may determine are needed for the administration of this bylaw.

Falmouth 2026 ATM Warrant - STR Article 17

- f. A certificate of insurance for general liability, as required by state statute, in the amount of \$1 million, at a minimum.
 - g. Occupancy limits. The license is subject to an occupancy limit of two times the number of bedrooms, as determined by the Board of Health, or designee.
 - h. Necessary Information Provided to Renters. The Operator shall provide the following information to Short-Term Rental renters, by posting or otherwise:
 - i) Contact information for the Operator and any other emergency contact person(s)
 - ii) The telephone numbers for Falmouth Police, Fire Rescue and Board of Health
 - iii) An email address for the Board of Health where the Renter may file a complaint
 - iv) The Board of Health, or designee, may impose additional Necessary Information requirements as the Board may determine are needed for the administration of this bylaw.
- 5) Ownership of Short-Term Rentals.
- a. No Owner shall be entitled to receive more than three licenses to operate a Short-Term Rental in the Town of Falmouth.
 - b. No Limited Liability Company tax ID number shall be used to register more than three Short-Term Rentals with the Department of Revenue of the Commonwealth.
 - c. No Fractional Ownership, Interval or Time Share unit may engage in Short-Term Rental activities or be eligible to receive a Short-Term Rental license for such unit.
 - d. No property which is owned, in whole or in part, by a C-corporation, an S-corporation, a nominee trust, or a real estate investment trust may engage in Short-Term Rental activities or be eligible to receive a Short-Term Rental license for such property.
- 6) Special Requirements for Partial Rentals.
- a. No partial rentals may include, as part of the rental, occupancy of any non-habitable space, such as a garage or unfinished basement, or any space which is permitted only for occasional, accessory, ancillary use, such as a finished basement laundry room which is not permitted for permanent occupancy.
 - b. The rental of part of a property must be designated in the application for a license;
 - c. During any short-term rental, no person, including any Owner, shall occupy any part of the property which could not otherwise be individually rented under this Bylaw. For example, an Owner may not rent out all available bedrooms while personally occupying a basement, a tent, or a garage.
 - d. All short-term rentals shall include access to bathroom and sanitary facilities for all occupants, including any Owners who occupy the premises during a rental.
- 7) Ineligible Properties.
- Short-Term Rentals are prohibited in any of the following:
- a. Dwelling units designated as affordable or otherwise income-restricted, which are subject to an affordability restriction or are otherwise subject to housing or rental assistance under local, state, or federal programs;
 - b. Any dwelling unit or other area that is movable or that is not on a permanent foundation, including but not limited to sheds, tents, campers, RVs, vans, boats, and any mobile homes which lack a permanent foundation.
- 8) Additional Restrictions on Use.
- a. No Short-Term Rental shall be made for any purpose other than to be used as temporary housing for renters.
 - b. No Short-Term Rental property shall be used for any purpose that charges for admission, either directly or indirectly, or which advertises attendance.

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- c. No Short-Term Rental shall be made to any entity as a renter. Short-Term Rentals shall only be rented to individuals.
- d. Nuisance. No Short-Term Rental shall create or result in the disruption of the peace, tranquility, or safety of the immediate residential neighborhood through the production of noise, vibration, light, glare, trash, fumes, odors, traffic, parking congestion, or any other nuisance beyond that which normally occurs in the immediate residential area.
- e. At no point during the use of the property as a Short-Term Rental shall the number of people present on the property exceed twice the occupancy limit as defined in this bylaw.

9) Inspection.

Short-Term Rentals may be subject to inspection by the Falmouth Health Department, Fire Rescue Department, and the Building Department. Short-Term Rental Owners are required to provide access for the purpose of conducting safety inspections when necessary. Failure to provide access to an inspector upon request and after proper notice will invalidate the license to operate a Short-Term Rental until an inspection by the appropriate authority has been conducted, and all violations have been addressed to the satisfaction of the inspecting Department or the Town. Failure to comply with orders to correct deficiencies may result in penalties.

10) Violations.

The Board of Health may cause an investigation into complaints of violations of this bylaw and any rules or regulations promulgated hereunder. The Board of Health may issue a notice of violation and, after a hearing and an opportunity to be heard, may, upon a showing of a preponderance of the evidence that a violation has occurred, place conditions upon, suspend or revoke the license. The Board of Health may issue a fine pursuant to non-criminal disposition or a may issue civil penalty.

11) Non-Criminal Disposition.

Any Owner who violates any provision of this bylaw or regulation promulgated hereunder may be subject to a civil fine. Where non-criminal disposition of this section is provided for in § 1-2 of the Falmouth bylaws, pursuant to the authority granted by M.G.L. c. 40 § 21D, said violation may be enforced in the manner provided in such statute. The civil fine for such violation shall be \$300 as set forth in § 1-2. Each day a violation occurs shall be a separate offense.

12) Civil penalty.

In accordance with G.L. c. 64G, § 14(v), the Town may assess a civil penalty not to exceed \$5,000 for any violation of this bylaw or a regulation issued hereunder. Each day a violation continues shall be considered a separate offense.

13) Authority of the Board of Health.

The Board of Health, or designee, is authorized to implement this bylaw. The Board of Health is authorized to promulgate written rules, regulations, policies and procedures for the administration and enforcement of Short-Term Rental licenses and to effectuate the purpose of this bylaw, subject to approval by the Select Board.

14) Severability.

If any provision in this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

15) Compliance with other laws.

All Short-Term Rentals shall be registered with the Commonwealth of Massachusetts Department of Revenue and shall be operated in accordance with this bylaw and all local, state and federal laws and regulations.

16) Effective Date. The provisions of this Bylaw shall take effect on January 1, 2027.

Or do or take any other action on the matter. On request of the Select Board.

Falmouth 2026 ATM Warrant - Rental Property Article 18

ARTICLE 18: To see if the Town will vote to amend the Code of Falmouth, Chapter 172, Rental Property, by striking out certain portions and adding certain text as follows with the deletions illustrated by ~~strikethroughs~~ and the **added new text in bold**:

§ 172-1. Registration **required** to ~~determine occupancy limits.~~

Any owner or agent who shall offer for rent or lease any building or portion thereof to be used for habitation, other than duly authorized or licensed premises, shall first register with the Health Agent who shall determine the number of persons said building or portion thereof can legally accommodate, **as consistent with the State Sanitary Code, Fair Housing Act and any other applicable law.** Such registration shall remain effective until December 31st of the calendar year. ~~Occupancy shall be determined by application of the following formula: Two persons shall be allowed for each bedroom over one hundred (100) square feet, provided that additional occupancy, as allowed upon Article II of the State Sanitary Code, 105 CMR 410.400(B), may be allowed upon inspection by the Board of Health.~~

§ 172-2. Fine for failure to register.

Any owner or agent who shall offer for rent or lease any building or portion thereof which has not been registered under § 172-1 shall be punished by a fine of not more than three hundred dollars (\$300.).

§ 172-3. **Exceptions.** ~~Fine for exceeding occupancy limits.~~

~~If it is found that the number of occupants in any building or portion thereof used for habitation exceeds the number of the registered occupancy as required by § 172-1 of this chapter, or if no such registration shall be in effect, then the tenant, lessee or person in control of said building or portion thereof shall be punished by a fine of not more than three hundred dollars (\$300.).~~

The provisions of this chapter 172 shall not apply to Short-Term Rentals.

§ 172-4. Posting of certificate of registration.

Any building or portion thereof registered by the provisions of this chapter shall have conspicuously posted therein a certificate of registration issued by the Board of Health which shall indicate, at a minimum, the number of occupants that may legally occupy said building or portion thereof, and the name, address and telephone number of the owner and the owner's agent, if applicable.

Or do or take any other action on the matter. On request of the Select Board.

ARTICLE 19: To see if the Town will vote to amend the Code of Falmouth, Chapter 75, Alarm Systems, by striking out § 75-12, False Alarms, in its entirety and replacing it as follows with the deletions illustrated by ~~strikethroughs~~ and the **added new text in bold**:

§ 75-12 False alarms.

~~After the Fire Rescue Department has recorded a false alarm from an alarm user within a calendar year, the Chief of Department or his designee shall notify the alarm user, in writing, of such facts, including the date and time of the alleged false alarm. For the second and each subsequent false alarm recorded during the calendar year a fee shall be assessed. The fee shall be as specified in the current Fee Schedule as established annually by the Town of Falmouth Board of Selectmen pursuant to the Board's authority under Chapter 119.~~

a. False Alarms Prohibited. The transmission of a false alarm to the Fire Rescue Department is prohibited.

b. Enforcement. The Fire Rescue Chief, or designee, shall enforce the provisions of this section of the bylaws.

c. Penalties. A violation of the provisions of this bylaw shall result in a warning for the first offense, and shall be punishable by a fine of \$100 for the second offense, a fine of \$200 for the third offense, and a fine of \$300 for the fourth and any subsequent offenses.

d. Non-criminal disposition. Violations of this bylaw may be enforced by a civil fine where non-criminal disposition of this section is provided in § 1-2 of the Falmouth bylaws, as amended, and



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
From: Kathy Williams, Town Planner
Date: May 15, 2026
Subject: Bond Bills, FY27 Appropriation Bill, and Zoning

The Commonwealth continues to use bond bills and appropriation bills to make modifications to MGL Chapter 40A – Zoning and to try to encourage zoning amendments through funding preferences. The following gives a brief overview of the changes and how they may impact Yarmouth.

1. **An Act to Build Resilience for Massachusetts Communities (Mass Ready Act) - Environmental Bond Bill S.3064**: The Senate passed a \$3.64 billion environmental bond bill entitled the “Mass Ready Act” on April 15, 2026 to fund climate resilience, water infrastructure, and environmental protection. The bill has moved to the House for its consideration.

During debate, the Senate adopted an amendment to the Senate bill that would exempt newly defined “priority housing projects” from local regulations or rules that go above and beyond the minimum state codes for wastewater and wetlands protection. More significantly, the Senate adopted an amendment that would significantly impact prioritization of projects funded by the environmental bond bill as stated below.

SECTION 108. All discretionary or competitive grant programs made available in this act for which eligible recipients include municipalities or other regional public entities comprised of municipalities shall include a preference modifier for applicants or prospective recipients that have zoning or land use policies that encourage the production of housing sufficient to meet commonwealth housing goals as determined by the executive office of housing and livable communities; provided, however, that such polices may include, but need not be limited to, as-of-right zoning capacity for multifamily housing that provides opportunity to build housing in appropriate areas, the elimination of parking minimums for residential use, the elimination of restrictive lot size requirements and wastewater and wetlands standards that do not exceed state health or environmental standards. A regional or other partnership of not less than 2 municipalities shall only be eligible for such preference modifier if the applicable requirements in all included municipalities are met. The executive office for administration and finance, in consultation with the executive office of energy and environmental affairs and the executive office of housing and livable communities shall issue guidelines to implement this section.

As this would impact preferences for State Revolving Fund (SRF) loans related to water infrastructure, the Cape Cod and Islands Water Protection Fund (CCIWPF) submitted the attached May 7, 2026 letter expressing their concerns as many Cape communities have adopted local wetland bylaws/regulations that are stricter than the state requirements to better protect our

environment. Although the CCIWPF's emphasis was related to wetland regulations, the other requirements related to zoning such as elimination of minimum parking requirements and elimination of "restrictive" lot size requirements are also important as they would require zoning amendments to gain the grant preference that may not be palatable to our community. This is concerning as the SRF funding is so important for our water and wastewater infrastructure improvements.

2. **Mass Wins Act –Economic Bond Bill H.5386**: Governor Healy filed the Mass Wins Act in April 2026 aimed as strengthening the state's competitiveness, lower costs to businesses, and create jobs. It also proposes amendments to MGL Chapter 40A – Zoning including adding a new Section 7A to codify the Site Plan Review process including definitions, timelines/voting requirements, and defining what can be addressed via Site Plan Review (see attached excerpts). Some definitions of note related to design review include:

“Performance standards” shall mean reasonable, written municipal zoning regulations, published industry standards and best practices, applicable to site plans and relative to traffic circulation and safety, pedestrian safety and access, off-street parking and loading, emergency vehicle access, stormwater drainage, screening, bulk and height of structures, exterior lighting and storage or other outdoor service areas.

“Bulk and height of structures”, the articulation and roof lines of structures; provided, however, that performance standards governing bulk and height of structures may not be more restrictive than the dimensional requirements set forth in the ordinance or by-law, nor require specific building materials. Articulation, as used herein, refers to the following strategies to address building massing: wall offsets, height variation, wall setbacks, accent lines, stepbacks or such other industry standard types of articulation as may be proposed by the petitioner.

It also further states that no zoning may include performance standards governing the aesthetics of structures. Based on past experience, it is anticipated some version of this bill will be passed and we will need to take a hard look at our Site Plan Review Team and VCOD SPR processes, as well as how this may impact Design Review and our design standards.

The Economic Bond Bill also modifies CH 40A to allow for opt-in zoning changes focused on commercial conversion incentives intended to transform underused properties into housing. These appear to be discretionary zoning amendments that a Town would need to adopt but aren't mandatory.

3. **Massachusetts FY27 Budget Process – Outside Sections**: The Senate Ways & Means Committee provided their FY 27 Budget Recommendations to the Senate and included amendments to MGL Ch 40A in the attached excerpt of the “Outside Sections” which are policy related legislative changes attached to the annual appropriation bill.

There are some simple modifications to allow for electronic notifications, but there are 4 Housing Production sections. Of particular note are Housing Production 3 with edits to Section 6 – Existing Structures, Uses, Or Permit; Certain Subdivision Plans; Application Of Chapter; and Housing Production 4 with edits to Section 10 - Variances.

Housing Production 3 modifies the attached Section 6 to change the timeline when a project would need to conform to subsequent bylaw changes after issuance of a permit from “not more than 12 months after the issuance of the permit” to “not more than 24 months after the issuance of the last permit necessary for construction” with the 24 months period being tolled while actively seeking or obtaining other permits. This could get complicated with keeping track of

permit timelines and zoning amendments. The last edit extended nonconforming abandoned uses and structures from 2-years to 4-years.

Housing Production 4 modifies the attached Section 10 and increases the timeline for a Variance to be exercised from 1-year to 2 years (excluding time to pursue other entitlements necessary to construct the project or await the determination of an appeal), and increases the amount of time for an extension from 6-months to 2-years. There are also changes to the language related to the Variance criteria.

“...if such permit granting authority specifically finds that a literal enforcement of the provisions of the ordinance or by-law would result in a practical difficulty. In making its determination, the permit granting authority shall weigh the benefits to the appellant or petitioner and to the public interest including the interest in supporting the production of housing against the detriment to the health, safety and welfare of the neighborhood, and may also consider: (a) whether the practical difficulty relates to soil conditions, shape or topography of such land or structures; (b) whether the literal enforcement would impose a financial hardship on the appellant or petitioner; (c) whether the benefit sought by the appellant or petitioner can be achieved by some other method feasible for the appellant or petitioner to achieve; and (d) whether the practical difficulty was self-created.”

It also eliminated the second to last paragraph of Section 10 related to imposing conditions, safeguards, and limitations.

ATTACHMENTS

- May 7, 2026 Letter from Cape Cod & Islands Water Protection Fund regarding the S3064
- Excerpt of Environmental Bond Bill – Definition of Priority Housing Projects
- Excerpts of Economic Bond Bill H.5386
- Excerpts from the Senate Committee on Ways and Means FY 27 Budget Recommendations
- MGL CH 40A Sections 6 and 10

CC: Mark Grylls, Building Commissioner
Meggan Eldredge, Director of Community Development
Mary Waygan, Housing Administrator
Bob Whritenour, Town Administrator

CAPE COD AND ISLANDS WATER PROTECTION FUND

May 7, 2026

Via E-mail

Senate President Karen Spilka
Massachusetts State House
24 Beacon Street, Room 332
Boston, MA 02133

House Speaker Ronald Mariano
Massachusetts State House
24 Beacon Street, Room 356
Boston, MA 02133

Re: S.3064 An Act to Build Resilience for Massachusetts Communities

Dear Senate President Spilka and House Speaker Mariano,

I am writing to you on behalf of the Executive Committee of the Cape Cod and Islands Water Protection Fund (Fund) Management Board regarding the current version of the Environmental Bond Bill (S.3064 An Act to Build Resilience for Massachusetts Communities). We have previously written to express our strong support for the \$450 million bonding authorization for clean drinking water and wastewater infrastructure included in the bill and thank you for this provision. State Revolving Fund (SRF) capacity to support projects through the Clean Water Intended Use Plan (IUP) is a significant concern on Cape Cod as it will drastically impact the ability of our communities to implement critical water quality projects and the proposed authorization will ensure communities across the Commonwealth can continue to rely on SRF.

The current version of the bill provides preferential treatment for all discretionary or competitive grant programs made available through the bill - one of which is the Clean Water SRF program - to municipalities that have zoning or land use policies that encourage the production of housing sufficient to meet Commonwealth housing goals (see section 108, lines 3516 through 3529), such as wastewater and wetlands standards that do not exceed state health or environmental standards. This is problematic.

As the Legislature has long recognized through numerous acts over the last decade, the ecological conditions unique to Cape Cod require special consideration. Local standards that protect water resources and the environment are necessary due to the unique hydrogeology of Cape Cod and should not be seen as tools that discourage housing production.

Many towns on Cape Cod have adopted local wetlands bylaws and regulations that may be more restrictive than state requirements. Wetlands and their buffers are particularly important on Cape Cod, as they help protect our sole source aquifer, prevent flooding and storm damage, and support the region's biodiversity. There are several provisions that typically vary town-by-town and from the state due to the unique natural resources in the region, including the widths of no-disturb buffer zones, siting of septic systems near wetlands, proximity of development to eelgrass, requirements for native plant restoration and mitigation, as well as protections for certain types of wetlands, such as salt marshes, to migrate inland. The flexibility for local regulation to vary from state requirements is important due to the unique circumstances of our communities in the face of climate change, sea

CAPE COD AND ISLANDS WATER PROTECTION FUND

level rise, and flooding. Further, Cape communities are taking significant actions to address coastal water quality challenges by providing much needed infrastructure and adopting policies that promote nitrogen reduction and improve water quality. These local land use policies are not intended to limit housing production but to protect resources our region relies on.

The current rating system for the Massachusetts Clean Water SRF Program provides preference for projects consistent with a Section 208 Area-Wide Water Quality Management Plan. This provision allows Cape communities to access much needed state financing with 0% interest and, subsequently, the 25% Cape Cod and Islands Water Protection Fund subsidy. Both of these legislative innovations have been wildly successful at spurring the cleanup of Cape Cod's water resources. The impact of SRF and the Fund subsidy on the ability of Cape towns to advance water pollution abatement efforts is unprecedented. The preference provisions currently in the bill before the House threaten the continued ability of Cape towns to have access to limited SRF funds. We know that is not your intent and we urge you to consider the potential impact section 108 of S.3064 will have on the ability of Cape Cod towns to continue advancing necessary water quality and wastewater projects. Provisions that limit the ability of Cape Cod towns to continue accessing SRF should be struck from this bill.

The Commonwealth of Massachusetts has demonstrated a significant commitment to advancing clean water on Cape Cod and across the state. Supplementing the SRF with bond funds is consistent with the objectives of the region and the state to advance water quality and wastewater projects, allowing towns to proceed as required by Title 5 and the Watershed Permits encouraged by the Healey-Driscoll Administration.

Thank you for your consideration.

Sincerely,



Kevin Galligan
Chair, Cape Cod and Islands Water Protection Fund Management Board

cc: Senator Julian Cyr
Senator Dylan A. Fernandes
Representative Kip A. Diggs
Representative Thomas W. Moakley
Representative Christopher R. Flanagan
Representative David T. Vieira
Representative Steven G. Xiarhos
Representative Hadley Luddy
Mark Ells, Barnstable Town Manager
Marlene McCollem, Bourne Town Administrator
Peter Lombardi, Brewster Town Manager
Jill Goldsmith, Chatham Town Manager

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Elizabeth Sullivan, Dennis Town Administrator
Jacqueline Beebe, Eastham Town Manager
Mike Renshaw, Falmouth Town Manager
James McGrail, Harwich Town Administrator
Rodney Collins, Mashpee Town Manager
Kimberly Newman, Orleans Town Manager
Alex Morse, Provincetown Town Manager
Bud Dunham, Sandwich Town Manager
Kelly Clark, Truro Town Manager
Tom Guerino, Wellfleet Town Administrator
Robert Whritenour, Yarmouth Town Administrator
Adam Turner, Martha's Vineyard Commission Executive Director
David Koffman, Massachusetts Municipal Association
Elizabeth Gibson, Nantucket Town Manager
James Hagerty, Edgartown Town Administrator
Wendy Brough, Oak Bluffs Acting Town Administrator
Joseph LaCivita, Vineyard Haven Town Administrator
Jennifer Rand, West Tisbury Town Administrator
Timothy Carroll, Chilmark Town Administrator
Jeffrey Madison, Aquinnah Town Administrator

EXCERPT OF ENVIRONMENTAL BOND BILL - DEFINITION OF PRIORITY HOUSING PROJECTS

3349 reports and certifications; provided, however, that any executive department or state agency
3350 expending such funds shall maximize efforts and utilize all available means to minimize use of
3351 capital funds for such purpose.

3352 SECTION 104. Each agency acquiring land or an interest in land under this act may
3353 expend an amount not to exceed 5 per cent of the amount appropriated to that agency for the
3354 purpose of reimbursing nonprofit land conservation organizations or land trusts for reasonable
3355 expenses directly associated with the acquisition of land or interests in land subsequently
3356 conveyed to the commonwealth. Reimbursements shall be made at the discretion of the agency.
3357 The secretary of energy and environmental affairs shall determine, by regulation, what shall
3358 constitute reasonable expenses. If the commonwealth does not take title to the property through
3359 no fault of the nonprofit organization or the commonwealth, the commonwealth may reimburse
3360 the nonprofit organization for reasonable expenses associated with due diligence. An
3361 organization receiving a reimbursement under this section shall convey the land or interest in
3362 land to the agency for an amount not to exceed the actual purchase price paid by the organization
3363 for the land or interest in land in addition to any reimbursement received under this section.

3364 SECTION 105. For the purposes of sections 16, 35 and 52, “priority housing projects”
3365 shall mean housing projects that are: (i) housing-centered; (ii) dense; (iii) on infill sites; (iv)
3366 energy efficient; (v) designed to be adequately served by utilities; (vi) designed to promote
3367 resilience to flooding and other climate hazards; and (vii) designed to encourage access by
3368 multiple modes of transportation. The secretary of energy and environmental affairs shall, in
3369 consultation with the secretary of housing and livable communities and the commissioner of
3370 environmental protection, issue policy guidelines for priority housing projects within 6 months
3371 of the effective date of this act and promulgate regulations consistent with the policy guidelines.

EXCERPTS OF THE ECONOMIC DEVELOPMENT BOND BILL (H5386)

336 SECTION 32. Subsection (b) of said section 20 of said chapter 25, as so appearing, is
337 hereby amended by striking out, in line 22, the words “Massachusetts Renewable Energy Trust”
338 and inserting in place thereof the following words:- Climatetech Investment Fund.

339 SECTION 33. Said subsection (b) of said section 20 of said chapter 25, as so appearing,
340 is hereby further amended by inserting, in line 24, after the words “subsidy from” the following
341 words:- revenues from mandatory charges held by.

342 SECTION 34. Said subsection (b) of said section 20 of said chapter 25, as so appearing,
343 is hereby further amended by striking out, in line 28, the word “collaborative” and inserting in
344 place thereof the following words:- Massachusetts clean energy technology center.

345 SECTION 35. Section 1A of chapter 40A of the General Laws, as appearing in the 2024
346 Official Edition, is hereby amended by inserting after the definition of “As of right” the
347 following definition:-

348 “Bulk and height of structures”, the articulation and roof lines of structures; provided,
349 however, that performance standards governing bulk and height of structures may not be more
350 restrictive than the dimensional requirements set forth in the ordinance or by-law, nor require
351 specific building materials. Articulation, as used herein, refers to the following strategies to
352 address building massing: wall offsets, height variation, wall setbacks, accent lines, stepbacks or
353 such other industry standard types of articulation as may be proposed by the petitioner.

354 SECTION 36. Said section 1A of said chapter 40A, as so appearing, is hereby further
355 amended by inserting after the definition of “Permit granting authority” the following definition:-

356 “Site plan review”, the review and approval process under a municipality’s zoning
357 ordinance or by-law that establishes criteria for the layout, safety and impacts of a proposed use
358 or development, and whether a proposed use of land or structures is in compliance with
359 reasonable performance standards as defined in section 7A; provided, however, that site plan
360 review, and the performance standards applicable thereto, in connection with any protected use
361 pursuant to section 3 or any other section of this chapter shall be limited to the extent required by
362 the provisions of such section.

363 SECTION 37. Said chapter 40A of the General Laws, as so appearing, is hereby amended
364 by inserting after section 3B the following section:-

365 Section 3C. (a) As used in this section, the following words shall, unless the context
366 clearly requires otherwise, have the following meanings:-

367 “Adaptive reuse”, the conversion of an existing structure from the use for which it was
368 constructed to multi-family housing or mixed-use development by maintaining the elements of
369 the structure and adapting such elements to the new use.

370 “Bus station”, a location serving as a point of embarkation for any bus operated by a
371 transit authority, including the Massachusetts Bay Transportation Authority Silver Line.

372 “Board of appeals”, a municipal zoning board of appeals established pursuant to section
373 12.

374 “Commuter rail station”, Any commuter rail station operated by a transit authority with
375 year-round service with trains departing at regular time intervals, rather than intermittent,
376 seasonal or event-based service.

377 “Commercial conversion”, the use of land or structures for the creation and operation of
378 any of the following: (i) adaptive reuse, (ii) new construction of multi-family housing and (iii)
379 new construction of mixed-use development.

380 “Commercial use”, the use of land or structures for non-residential uses including, but not
381 limited to offices, retail, dining establishments and other similar uses as may be provided through
382 regulation by the executive office in consultation with the executive office of economic
383 development.

384 “Commercially zoned lot”, a lot where zoning allows commercial use as-of-right or by
385 special permit.

386 “Executive office”, the executive office of housing and livable communities.

387 “Ferry terminal”, the location where passengers embark and disembark from a ferry
388 service with year-round service with ferries departing at regular time intervals, rather than
389 intermittent, seasonal or event-based service.

390 “Financially infeasible”, to add unreasonable costs or unreasonably diminish the
391 economic feasibility of a commercial conversion by means of a condition or requirement
392 imposed by the board of appeals.

393 “Local board”, any local board or official including, but not limited to, any board of
394 survey; board of health; board of subdivision control appeals; planning board; conservation
395 commission; historical commission; water, sewer or other commission or district; fire, police,
396 traffic or other department; building inspector or similar official or board; city council or
397 selectboard; all boards, regardless of their geographical jurisdiction or their source of authority,

398 including boards established pursuant to any special law or general law, shall be a local board if
399 they perform functions usually performed by locally created boards.

400 “Local contribution”, an incentive provided by a city or town for commercial conversion
401 on a commercially zoned lot under subsection (c).

402 “Subway station”, any of the stops along the rapid transit system of a transit authority,
403 including the Massachusetts Bay Transportation Authority red line, green line, orange line or
404 blue line, including any extensions or additions to such lines.

405 “Transit authority”, the Massachusetts Bay Transportation Authority established by
406 section 2 of chapter 161A, or any other local or regional transit authority established pursuant to
407 section 3 of chapter 161B or section 14 of said chapter 161B.

408 “Transit station”, a subway station, commuter rail station, ferry terminal or bus station.

409 (b)(1) A city or town subject to this chapter, may, pursuant to section 5, amend zoning to
410 allow commercial conversion as of right on every commercially zoned lot; provided, that a city
411 or town that adopts as of right zoning under this section shall provide not less than 1 adaptive
412 reuse incentive pursuant to subsection (c); and provided further, that as of right zoning
413 established pursuant to this section shall provide at a minimum, but not be limited to, the
414 following:

415 (i) For adaptive reuse, allow existing building setbacks to remain and be considered legal
416 nonconforming pursuant to section 6 of chapter 40A; provided, however, that a municipality may
417 prohibit any additional encroachments into any nonconforming setback, unless otherwise
418 required pursuant to clause (ii) or otherwise allowed under zoning;

419 (ii) For adaptive reuse, allow such development to exceed the existing footprint of the
420 building to accommodate upgrades related to building code, fire code and utility requirements;

421 (iii) For adaptive reuse, allow such development to exceed the maximum height of the
422 existing zoning district if the structure in existence prior to the adaptive reuse exceeds the
423 maximum height of the existing zoning district;

424 (iv) Adaptive reuse for multi-family housing, new multi-family housing and new-
425 construction of mixed-use developments shall be exempt from residential parking requirements
426 that exceed 1 parking space per residential dwelling unit; provided, that such commercial
427 conversion projects on lots that are partially or entirely located within a 0.5 mile radius of a
428 transit station shall be exempt from any residential parking requirements;

429 (v) A city or town may require that adequate infrastructure, including roads, water and
430 sewage systems, shall be available or provided to support commercial conversion;

431 (vi) A city or town may restrict development on lots where industrial and manufacturing
432 uses are permitted and where such uses have a substantial and demonstrable likelihood of
433 resulting in impacts that are incompatible with residential use, such as air, noise or odor;

434 (vii) A city or town may impose affordable housing requirements on commercial
435 conversion through an inclusionary zoning ordinance or bylaw to the extent that such affordable
436 housing requirement does not require more than 10 per cent of the residential units within a
437 commercial conversion to be subject to such affordable housing requirement and such
438 requirement does not limit eligibility to households earning not more than 80 per cent area
439 median income; provided, that the executive office, in its discretion, may approve a greater
440 percentage of affordable units or deeper affordability requirements for some or all of the

441 affordable units upon request by a city or town as to an individual project in a form as may be
442 designated by the executive office.

443 (viii) Notwithstanding any special or general law, rule or regulation to the contrary, a
444 commercial conversion that is adaptive reuse under this section shall comply with the base
445 energy code pursuant to the state building code, 780 CMR, and shall not be required to comply
446 with the specialized stretch energy code established pursuant to section 6 of chapter 25A or the
447 municipal opt-in specialized stretch energy code established pursuant to said section 6 of said
448 chapter 25A.

449 (2) Notwithstanding sections 5, 8 and 9, a city or town that has adopted zoning pursuant
450 to paragraph (1) of subsection (b) may establish a streamlined process for a petitioner or
451 applicant seeking commercial conversion of a commercially zoned lot to submit to the board of
452 appeals a single application for approval of a commercial conversion in lieu of separate
453 applications to the applicable local boards. Such process shall provide, at a minimum, but not be
454 limited to, the following:

455 (i) The board of appeals shall notify each local board, as applicable, of the filing of an
456 application under this paragraph by sending a copy thereof to such local boards for their
457 recommendations and shall, within 30 days of the receipt of the application, hold a public
458 hearing in conformance with section 11;

459 (ii) The board of appeals shall request representatives of local boards as are deemed
460 necessary or helpful in making its decision upon an application to attend the hearing and shall,
461 notwithstanding section 7, have the same power to issue permits or approvals as any local board
462 or official who would otherwise act with respect to such application, including but not limited to

463 the power to attach to said permit or approval conditions and requirements that are not
464 financially infeasible;

465 (iii) The board of appeals, in making its decision on an application, shall take into
466 consideration the recommendations of the local boards and shall have the authority to use the
467 testimony of consultants;

468 (iv) The board of appeals shall render a decision, based upon a majority vote of said
469 board, within 60 days of receiving an application; and

470 (v) If a hearing is not convened or a decision is not rendered within the time allowed
471 under clause (iv), unless the time has been extended by mutual agreement between the board of
472 appeals and the applicant, the application shall be deemed to have been allowed and the permit
473 or approval shall issue.

474 (c) A city or town that adopts zoning pursuant to this section may provide any of the
475 following local contributions: (i) a tax increment exemption for adaptive reuse pursuant to
476 section 5P of chapter 59; (ii) a preference for commercial conversion projects for assistance
477 under a community preservation fund established pursuant to section 7 of chapter 44B; (iii) a
478 preference for commercial conversion projects for assistance under a municipal affordable
479 housing trust fund established pursuant to section 55C of chapter 44; (iv) adoption of a
480 streamlined approval process pursuant to subparagraph (2) of subsection (b); or (v) any other
481 local contributions as determined by the executive office.

482 (d) The executive office may establish additional incentives for cities and towns that
483 adopt zoning and a local contribution pursuant to this section. Such incentives for cities and
484 towns may include, but not be limited to, a preference for financial assistance pursuant to section

485 27 ½ of chapter 23B, a preference for tax credits authorized pursuant to subsection (ee) of
486 section 6 of chapter 62 and section 3800 of chapter 63 and other incentives identified by the
487 executive office in consultation with the executive office of economic development and the
488 executive office for administration and finance.

489 (e) The executive office may, in consultation with the executive office of economic
490 development, promulgate regulations for the implementation and administration of this section.

491 (f) A city or town that has adopted zoning pursuant to paragraph (1) of subsection (b)
492 above may repeal such adoption pursuant to section 5.

493 **SECTION 38.** Section 5 of said chapter 40A, as so appearing, is hereby amended by
494 inserting after the word “appeals,” in line 6, the following words:- a mayor,.

495 **SECTION 39.** Said section 5 of said chapter 40A, as so appearing, is hereby further
496 amended by striking out, in line 92, the words “or (c) open-space residential development;” and
497 inserting in place thereof the following words:- (c) open-space residential development; or (d)
498 commercial conversion pursuant to section 3C.

499 **SECTION 40.** Section 6 of said chapter 40A, as so appearing, is hereby amended by
500 inserting, in line 13, after the words “except where alteration, reconstruction, extension or
501 structural change to” the following words:- a structure used for commercial conversion pursuant
502 to section 3C, to the extent allowed by that section or.

503 **SECTION 41.** Said section 6 of said chapter 40A, as so appearing, is hereby further
504 amended by inserting, in line 38, after the word “permit,” the following words:-“Construction or
505 operations under a special permit issued pursuant to section 9 or site plan approval pursuant to

506 the local ordinance or by-law shall conform to any subsequent amendment of the zoning
507 ordinance or by-law or of any other local land use regulations unless the use or construction is
508 commenced within a period of 3 years after the issuance of the special permit or site plan
509 approval and” and inserting in place thereof the following words:- Construction or operations
510 under a special permit issued pursuant to section 9 or site plan approval pursuant to the local
511 ordinance or by-law or a permit for commercial conversion issued pursuant to section 3C shall
512 conform to any subsequent amendment of the zoning ordinance or by-law or of any other local
513 land use regulations unless the use or construction is commenced within a period of 3 years after
514 the issuance of the special permit, permit for commercial conversion.

515 **SECTION 42.** Said chapter 40A of the General Laws is hereby further amended by
516 adding the following section:-

517 Section 7A. (a) As used in this section, the following words shall have the following
518 meanings:

519 “Designated authority” shall mean the local municipal board, committee or officials
520 designated in the zoning ordinance or by-law to conduct site plan review.

521 “Performance standards” shall mean reasonable, written municipal zoning regulations,
522 published industry standards and best practices, applicable to site plans and relative to traffic
523 circulation and safety, pedestrian safety and access, off-street parking and loading, emergency
524 vehicle access, stormwater drainage, screening, bulk and height of structures, exterior lighting
525 and storage or other outdoor service areas.

526 (b) Substantive provisions of site plan review, including content of submittal
527 requirements and applicable performance standards, governing site plan review and approval by

528 the designated authority or authorities must be as set forth within a local ordinance or by-law
529 adopted pursuant to section 5. Performance standards must be reasonably definite and objective
530 so that any petitioner has knowledge of such standards prior to application submittal. No zoning
531 by-law or ordinance may include performance standards governing the aesthetics of structures.
532 The designated authority may, where such action is in the public interest and not inconsistent
533 with the intent and purpose of this section, waive strict compliance with the performance
534 standards for site plan review. The designated authority may adopt, and from time to time
535 amend, written procedural rules and regulations to implement the local site plan review
536 ordinance or by-law, including provisions for the imposition of reasonable fees for the
537 employment of outside consultants in the same manner as set forth in section 53G of chapter 44.

538 (c) A zoning ordinance or by-law may establish applicability standards for projects that
539 are subject to site plan review, which may include a category of projects that are subject to a
540 minor or administrative site plan review process. The zoning ordinance or by-law may require a
541 public hearing in accordance with section 11 for projects that meet or exceed specified thresholds
542 under the zoning ordinance or by-law. The decision of the designated authority for a use allowed
543 as of right, or for a use requiring a special permit but reviewed by a separate designated
544 authority, shall require a simple majority vote of the designated authority and shall be made
545 within the time limits prescribed by ordinance or by-law, not to exceed 90 days from the date of
546 filing of a complete application or such extended time as may be agreed in writing by the
547 petitioner. The submission and review process for a site plan required in connection with the
548 issuance of a special permit, and subject to review by the same permit granting authority as the
549 special permit application, shall be conducted with the review of the special permit application in
550 a coordinated process and may require the same quantum of vote required for approval of a

551 special permit. The ordinance or by-law may establish the designated authority to be the building
552 commissioner, director of planning or other municipal official who coordinates administrative
553 site plan review with other municipal employees, in which instance there shall be no vote
554 requirement for site plan review. Any appeal from administrative site plan review shall be in
555 accordance with section 17 unless an ordinance or by-law first provides for an appeal to another
556 public body of the municipality. In no instance shall the issuance or denial of a building permit
557 be a prerequisite to the filing of a civil action under this section.

558 (d) Site plan review may impose only those conditions that are necessary to ensure
559 substantial compliance of the proposed use of land or structures with the requirements of the
560 zoning ordinance or by-law; provided that no condition may impose restrictions greater than
561 those expressly regulated within the zoning ordinance or by-law and no conditions may be
562 imposed regarding matters over which jurisdiction exclusively lies in another body pursuant to
563 any general or special law; and provided further, that any off-site conditions shall only address
564 direct adverse impacts related to performance standards expressly governed by the zoning
565 ordinance or by-law and which conditions are proportionate in both nature and extent to the
566 impacts of the project on adjacent properties or adjacent roadways.

567 (e) A site plan application may be denied only on the grounds that: (i) the proposed site
568 plan does not meet the specific requirements set forth in the zoning ordinance or by-law; or (ii)
569 the petitioner failed to submit the information and fees required by the zoning ordinance or by-
570 law necessary for an adequate and timely review of the design of the proposed land or structures.

571 (f) The designated authority shall cause to be made a detailed record of its proceedings,
572 indicating the vote of each member upon each question, or if absent or failing to vote, indicating

573 such fact, and setting forth clearly the reason for its decision and of its official actions, copies of
574 all of which shall be filed within 14 days in the office of the city or town clerk and shall be
575 deemed a public record, and notice of the decision shall be mailed forthwith to the petitioner and,
576 if such site plan review required a public hearing pursuant to the zoning ordinance or by-law, to
577 the parties in interest designated in section 11. Each such notice shall specify that appeals, if any,
578 shall be made pursuant to section 17 and shall be filed within 20 days after the date of filing of
579 such notice in the office of the city or town clerk. Failure by the designated authority to take final
580 action within said 90 days or extended time, if applicable, shall be deemed to be an approval of
581 the site plan. The petitioner who seeks such approval by reason of the failure of the designated
582 authority to act within such time prescribed, shall notify the city or town clerk, in writing within
583 14 days from the expiration of said 90 days or extended time, if applicable, of such approval. If
584 site plan review required a public hearing, the petitioner shall send such notice to parties in
585 interest designated in section 11 by mail and each such notice shall specify that appeals, if any,
586 shall be made pursuant to section 17 and shall be filed within 20 days after the date the city or
587 town clerk received such written notice from the petitioner that the designated authority failed to
588 act within the time prescribed. After the expiration of 20 days without notice of appeal pursuant
589 to section 17, or, if appeal has been taken, after receipt of certified records of the court in which
590 such appeal is adjudicated, indicating that such approval has become final, the city or town clerk
591 shall issue a certificate stating the date of approval, the fact that the designated authority failed to
592 take final action and that the approval resulting from such failure has become final, and such
593 certificate shall be forwarded to the petitioner.

594 (g) A site plan approval granted under this section shall lapse within a specified period of
595 time, not less than 3 years from the date of the filing of such approval with the city or town clerk,

596 if substantial use or construction has not yet begun, except as extended for good cause by the
597 designated authority. Such specified period shall not include time required to pursue or await the
598 determination of an appeal under section 17 or to pursue or await the appeal of any other permit,
599 license, determination or approval which are prerequisites to issuance of a building permit. The
600 aforesaid minimum period of 3 years may, by ordinance or by-law, be increased to a longer
601 period.

602 **SECTION 43.** Section 14 of said chapter 40A, as so appearing, is hereby amended by
603 inserting after clause (4) the following clause:- (5) to hear and decide applications for
604 commercial conversion upon which the board is empowered to act pursuant to paragraph (2) of
605 subsection (b) of section 3C.

606 **SECTION 44.** Section 15 of said chapter 40A, as so appearing, is hereby amended by
607 striking out the words “The board of appeals shall hold a hearing on any appeal, application or
608 petition within sixty-five” and inserting in place thereof the following words:- Except as
609 provided under clause (i) of paragraph (2) of subsection (b) of section 3C, the board of appeals
610 shall hold a hearing on any appeal, application or petition within 65.

611 **SECTION 45.** Said section 15 of said chapter 40A, as so appearing, is hereby further
612 amended by inserting, after the words, in lines 50 to 51, “except in regard to” the following
613 words:- permits for commercial conversion, as provided for in clause (iv) of paragraph (2) of
614 subsection (b) of section 3C and in regard to.

615 **SECTION 46.** Section 4 of chapter 40G of the General Laws, as appearing in the 2024
616 Official Edition, is hereby amended by striking out subsection (8) and inserting in place thereof
617 the following subsection:-

122 **SECTION 18.** Section 5 of chapter 40A of the General Laws, as so appearing, is hereby
123 amended by inserting after the word “sent”, in lines 31 and 44, each time it appears, the
124 following words:- electronically or.

Electronic Notifications 2

125 **SECTION 19.** Said section 5 of said chapter 40A, as so appearing, is hereby further
126 amended by inserting, after the word “notice”, in line 37, the following words:- electronically or.

Housing Production 1

127 **SECTION 20.** Section 6 of said chapter 40A, as so appearing, is hereby amended by
128 striking out, in line 3, the word “issued” and inserting in place thereof the following words:- or
129 other entitlement applied for under this chapter.

Housing Production 2

130 **SECTION 21.** Said section 6 of said chapter 40A is hereby further amended by inserting
131 after the second sentence the following sentence:- “Additionally, structures on lots with pre-
132 existing nonconformities as to lot size or shape, frontage, lot coverage or floor area ratio may be
133 extended or altered as of right provided such extension or alteration complies with the current
134 dimensional regulations regarding height, stories and setback.”.

Housing Production 3

135 **SECTION 22.** Said section 6 of said chapter 40A is hereby further amended by striking
136 out the second and third paragraphs and inserting in place thereof the following 2 paragraphs:-
137 A zoning ordinance or by-law shall provide that construction or operations under a
138 building permit shall conform to any subsequent amendment of the ordinance or by-law unless
139 the use or construction is commenced not more than 24 months after the issuance of the last
140 permit necessary for construction and, in cases involving construction, unless such construction

Section 6 currently says "12 months after the issuance of the permit"

141 is continued through to completion as continuously and expeditiously as is reasonable. The 24-
 142 month period shall be tolled during any time the applicant is actively seeking or obtaining other
 143 necessary permits. Construction or operations under a special permit issued pursuant to section 9
 144 or site plan approval pursuant to the local ordinance or by-law shall conform to any subsequent
 145 amendment of the zoning ordinance or by-law or of any other local land use regulations unless
 146 the use or construction is commenced within a period of 3 years after the issuance of the special
 147 permit or site plan approval and, in cases involving construction, unless such construction is
 148 continued through to completion as continuously and expeditiously as is reasonable. For the
 149 purpose of the prior sentence, construction involving the redevelopment of previously disturbed
 150 land shall be deemed to have commenced upon substantial investment in site preparation or
 151 infrastructure construction, and construction of developments intended to proceed in phases shall
 152 proceed expeditiously, but not continuously, among phases.

New Language

153 A zoning ordinance or by-law may define and regulate nonconforming uses and
 154 structures abandoned or not used for a period of 4 years or more.

Section 6 currently says 2 years

Housing Production 4

155 SECTION 23. Said chapter 40A of the General Laws is hereby amended by striking out
 156 section 10 and inserting in place thereof the following section:-

157 Section 10. The permit granting authority shall have the power, after public hearing for
 158 which notice has been given by publication and posting as provided under section 11 and by
 159 mailing to all parties in interest, to grant upon appeal or upon petition with respect to particular
 160 land or structures a variance from the terms of the applicable zoning ordinance or by-law if such
 161 permit granting authority specifically finds that a literal enforcement of the provisions of the
 162 ordinance or by-law would result in a practical difficulty. In making its determination, the permit

New Language

163 granting authority shall weigh the benefits to the appellant or petitioner and to the public interest
 164 including the interest in supporting the production of housing against the detriment to the health,
 165 safety and welfare of the neighborhood, and may also consider: (a) whether the practical
 166 difficulty relates to soil conditions, shape or topography of such land or structures; (b) whether
 167 the literal enforcement would impose a financial hardship on the appellant or petitioner; (c)
 168 whether the benefit sought by the appellant or petitioner can be achieved by some other method
 169 feasible for the appellant or petitioner to achieve; and (d) whether the practical difficulty was
 170 self-created.

Modified
Language
on
Variance
Criteria

171 Except where local ordinances or by-laws expressly permit variances for use, no variance
 172 may authorize a use or activity **added language** other than residential, not otherwise permitted in the district in
 173 which the land or structure is located; provided, however, that such variances properly granted
 174 prior to January 1, 1976, but limited in time, may be extended on the same terms and conditions
 175 that were in effect for such variance upon said effective date. If the rights authorized by a
 176 variance are not exercised within **increased from 1-year** 2 years of the date of grant of such variance, which shall not
 177 include such time required to pursue other entitlements necessary to construct the project **added language**
 178 authorized by the variance or await the determination of an appeal referred to in section 17, such
 179 rights shall lapse; provided, however, that the permit granting authority in its discretion and upon
 180 written application by the grantee of such rights may extend the time for exercise of such rights
 181 for a period not to exceed **increased from 6-months** 2 years; and provided further, that the application for such extension is
 182 filed with such permit granting authority prior to the expiration of such 2 year period. If the
 183 permit granting authority does not grant such extension within 30 days of the date of application
 184 therefor, and upon the expiration of the original 2 year period, such rights may be reestablished
 185 only after notice and a new hearing pursuant to the provisions of this section.

Electronic Notifications 3

186 **SECTION 24.** Section 11 of said chapter 40A, as appearing in the 2024 Official Edition,
187 is hereby amended by inserting, after the word “sent”, in line 8, the following words:-
188 electronically or.

Electronic Notifications 4

189 **SECTION 25.** Said section 11 of said chapter 40A, as so appearing, is hereby further
190 amended by inserting, after the word “notice”, in line 23, the following words:- electronically or.

DNA Exception to Statute of Limitations 1

191 **SECTION 26.** Chapter 41 of the General Laws is hereby amended by striking out section
192 97B1/2, as appearing in the 2024 Official Edition, and inserting in place thereof the following
193 section:-

194 Section 97B1/2. (a) A hospital licensed pursuant to chapter 111 and all other medical
195 facilities that conduct medical forensic examinations shall notify a local law enforcement agency
196 at the time the evidence of a sexual assault is obtained and not later than 24 hours after using a
197 new kit for the collection of sexual assault evidence.

198 (b) Local law enforcement agencies shall:

199 (1) Take possession of the sexual assault evidence kit from hospitals and other medical
200 facilities that conduct medical forensic examinations within 3 business days of notification.

201 (2) Submit new sexual assault evidence kits to the crime laboratory within the department
202 of the state police or the police department of a municipality that operates a crime laboratory and
203 has a population of more than 150,000, in the case of a sexual assault alleged to have taken place
204 in that municipality, within 7 business days of taking possession, except that non-investigatory
205 sexual assault evidence kits associated with a victim who has not yet filed a report with law

Part I	ADMINISTRATION OF THE GOVERNMENT
Title VII	CITIES, TOWNS AND DISTRICTS
Chapter 40A	ZONING
Section 6	EXISTING STRUCTURES, USES, OR PERMITS; CERTAIN SUBDIVISION PLANS; APPLICATION OF CHAPTER

Section 6. Except as hereinafter provided, a zoning ordinance or by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on such ordinance or by-law required by section five, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure. Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by

ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. This section shall not apply to establishments which display live nudity for their patrons, as defined in section nine A, adult bookstores, adult motion picture theaters, adult paraphernalia shops, or adult video stores subject to the provisions of section nine A.

A zoning ordinance or by-law shall provide that construction or operations under a building permit shall conform to any subsequent amendment of the ordinance or by-law unless the use or construction is commenced within a period of not more than 12 months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. Construction or operations under a special permit issued pursuant to section 9 or site plan approval pursuant to the local ordinance or by-law shall conform to any subsequent amendment of the zoning ordinance or by-law or of any other local land use regulations unless the use or construction is commenced within a period of 3 years after the issuance of the special permit or site plan approval and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. For the purpose of the prior sentence, construction involving the redevelopment of previously disturbed land shall be deemed to have commenced upon substantial investment in site preparation or infrastructure construction, and construction of developments intended to proceed in phases shall proceed expeditiously, but not continuously, among phases.

A zoning ordinance or by-law may define and regulate nonconforming uses and structures abandoned or not used for a period of two years or more.

Any increase in area, frontage, width, yard, or depth requirements of a zoning ordinance or by-law shall not apply to a lot for single and two-family residential use which at the time of recording or endorsement, whichever occurs sooner was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand square feet of area and fifty feet of frontage. Any increase in area, frontage, width, yard or depth requirement of a zoning ordinance or by-law shall not apply for a period of five years from its effective date or for five years after January first, nineteen hundred and seventy-six, whichever is later, to a lot for single and two family residential use, provided the plan for such lot was recorded or endorsed and such lot was held in common ownership with any adjoining land and conformed to the existing zoning requirements as of January first, nineteen hundred and seventy-six, and had less area, frontage, width, yard or depth requirements than the newly effective zoning requirements but contained at least seven thousand five hundred square feet of area and seventy-five feet of frontage, and provided that said five year period does not commence prior to January first, nineteen hundred and seventy-six, and provided further that the provisions of this sentence shall not apply to more than three of such adjoining lots held in common ownership. The provisions of this paragraph shall not be construed to prohibit a lot being built upon, if at the time of the building, building upon such lot is not prohibited by the zoning ordinances or by-laws in effect in a city or town.

Adjacent lots under common ownership shall not be treated as a single lot for local zoning purposes if, at the time of recording or endorsement, the lots: (i) conformed to then existing requirements of area, frontage, width, yard or depth, where each such lot has not less than 10,000 square feet of

area and 75 feet of frontage; and (ii) are located in a zoning district that allows for single-family residential use. Any single-family residential structure constructed on said lot shall not exceed 1,850 square feet of heated living area, shall contain not less than 3 bedrooms and shall not be used as a seasonal home or short-term rental.

If a definitive plan, or a preliminary plan followed within seven months by a definitive plan, is submitted to a planning board for approval under the subdivision control law, and written notice of such submission has been given to the city or town clerk before the effective date of ordinance or by-law, the land shown on such plan shall be governed by the applicable provisions of the zoning ordinance or by-law, if any, in effect at the time of the first such submission while such plan or plans are being processed under the subdivision control law, and, if such definitive plan or an amendment thereof is finally approved, for eight years from the date of the endorsement of such approval, except in the case where such plan was submitted or submitted and approved before January first, nineteen hundred and seventy-six, for seven years from the date of the endorsement of such approval. Whether such period is eight years or seven years, it shall be extended by a period equal to the time which a city or town imposes or has imposed upon it by a state, a federal agency or a court, a moratorium on construction, the issuance of permits or utility connections.

When a plan referred to in section eighty-one P of chapter forty-one has been submitted to a planning board and written notice of such submission has been given to the city or town clerk, the use of the land shown on such plan shall be governed by applicable provisions of the zoning ordinance or by-law in effect at the time of the submission of such plan while such plan is being processed under the subdivision control law

including the time required to pursue or await the determination of an appeal referred to in said section, and for a period of three years from the date of endorsement by the planning board that approval under the subdivision control law is not required, or words of similar import.

Disapproval of a plan shall not serve to terminate any rights which shall have accrued under the provisions of this section, provided an appeal from the decision disapproving said plan is made under applicable provisions of law. Such appeal shall stay, pending either (1) the conclusion of voluntary mediation proceedings and the filing of a written agreement for judgment or stipulation of dismissal, or (2) the entry of an order or decree of a court of final jurisdiction, the applicability to land shown on said plan of the provisions of any zoning ordinance or by-law which became effective after the date of submission of the plan first submitted, together with time required to comply with any such agreement or with the terms of any order or decree of the court.

In the event that any lot shown on a plan endorsed by the planning board is the subject matter of any appeal or any litigation, the exemptive provisions of this section shall be extended for a period equal to that from the date of filing of said appeal or the commencement of litigation, whichever is earlier, to the date of final disposition thereof, provided final adjudication is in favor of the owner of said lot.

The record owner of the land shall have the right, at any time, by an instrument duly recorded in the registry of deeds for the district in which the land lies, to waive the provisions of this section, in which case the ordinance or by-law then or thereafter in effect shall apply. The submission of an amended plan or of a further subdivision of all or part of the land shall not constitute such a waiver, nor shall it have the effect of

further extending the applicability of the ordinance or by-law that was extended by the original submission, but, if accompanied by the waiver described above, shall have the effect of extending, but only to extent aforesaid, the ordinance or by-law made then applicable by such waiver.

Part I ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter 40A** ZONING**Section 10** VARIANCES

Section 10. The permit granting authority shall have the power after public hearing for which notice has been given by publication and posting as provided in section eleven and by mailing to all parties in interest to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning ordinance or by-law where such permit granting authority specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law. Except where local ordinances or by-laws shall expressly permit variances for use, no variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is

located; provided however, that such variances properly granted prior to January first, nineteen hundred and seventy-six but limited in time, may be extended on the same terms and conditions that were in effect for such variance upon said effective date.

The permit granting authority may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty days of the date of application therefor, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section.

From: [Dearing, Philip \(HLC\)](#)
To: [Williams, Kathleen](#); [Whritenour, Robert](#); [Peter Lombardi](#); [Walsh, Matthew \(HLC\)](#)
Cc: [Eldredge, Meggan](#)
Subject: Re: Seasonal Communities - Yarmouth
Date: Wednesday, April 22, 2026 11:09:37 AM

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Hi Kathleen,

On undersized lots, a seasonal community must amend its zoning to allow development of an undersized lot as of right for attainable housing units. There is nothing in seasonal communities law/reg that would prohibit zoning from allowing other types of development to occur on undersized lots as of right. The requirements in the reg generally apply to "zoning established pursuant to this section" and do not extend to other zoning provisions created outside of the requirement in the statute.

The current definition of undersized lots doesn't reference vacancy or a specific recording date. The definition of an undersized lot is: "A Lot that at the time of Recording or Endorsement is located in a Single-family Residential Zoning District, does not meet the minimum Lot size requirements for the Zoning District and has not merged with an adjacent Lot under common ownership."

On attainable housing, the local municipality , or its designee is responsible for monitoring and enforcing any agreements to which the municipality is party to. Year-round Housing Occupancy Restrictions also require occupants to execute an agreement with the Seasonal Community, or its designee. Municipalities are responsible for tenant selection. If a project is receiving state subsidy (including technical assistance through LIP/LAU) the municipality will be required to comply with program requirements for tenant selection and should contact EOHLIC to discuss.

I'm not a lawyer, but this is my best understanding on your questions. Since the law and regulations are new, I think we are working together to understand how they will operate in practice on the ground. I hope that helps!

Warmly,
Phil

From: Williams, Kathleen <kwilliams@yarmouth.ma.us>
Sent: Friday, April 17, 2026 5:35 PM
To: Dearing, Philip (HLC) <Philip.Dearing@mass.gov>; Whritenour, Robert <RWhritenour@yarmouth.ma.us>; Peter Lombardi <plombardi@brewster-ma.gov>; Walsh, Matthew (HLC) <Matthew.Walsh@mass.gov>
Cc: Eldredge, Meggan <MEldredge@yarmouth.ma.us>
Subject: RE: Seasonal Communities - Yarmouth

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Hi Phil,

Thank you for clearing up the question on Moveable Tiny Homes, very helpful. We did have a few other questions we were hoping to get clarification upon to be sure we are providing accurate information to our Planning Board and community.

1. **Undersized Lots:** Yarmouth's Zoning Bylaw currently offers many provisions to utilize pre-existing non-conforming lots as of right, and I am looking for some clarifications on how Undersized Lots would interact with our existing Bylaw.
 - a. Does adopting the Undersized Lots zoning requirement mean any pre-existing non-conforming lot meeting the minimum 10,000 square feet (or 25% of min lot size, whichever is greater) with 20' or more of frontage can only be developed as an Attainable Housing Unit with a Year-Round Occupancy Restriction?
 - b. Or, would the property owner have the choice to develop under other existing sections in our zoning bylaw related to pre-existing non-conforming grandfathered lots to which they qualify? And if so, would they then be subject to a Year-Round Occupancy Restriction per Section 76.04(1)(b)4? In other words, if we adopt this zoning requirement would all future development on vacant Undersized Lots be subject to a Year-Round Occupancy Restriction at a minimum?
 - c. Please confirm these requirements apply only to Vacant Undersized Lots.
 - d. It may be advisable to include a date by which the Underutilized Lots would have to have been recorded/endorsed to qualify under the Definition of Undersized Lots.
2. **Attainable Housing with Year-Round Housing Restriction:**
 - a. Attainable Housing Rent and Sale Prices: When an Attainable Housing Unit is sold or rented, who is responsible for determining the sale price and rental rates to remain affordable for 250% AMI (or lower number if the town chooses)?
 - b. Selection of Buyer/Renter: How are homeowners and renters for Attainable Housing selected? Who is responsible for verifying the criteria is being met? The current Affordable Housing rental lottery process is very onerous and expensive.

Thank you and have a great long weekend!

Kathy

Kathy Williams, P.E.

Yarmouth Town Planner

1146 Route 28

South Yarmouth, MA 02664-4492

(508) 398-2231 Ext 1276

From: [Dearing, Philip \(HLC\)](#)
To: [Whritenour, Robert](#); [Peter Lombardi](#); [Walsh, Matthew \(HLC\)](#)
Cc: [Williams, Kathleen](#)
Subject: Re: Seasonal Communities - Yarmouth
Date: Monday, March 30, 2026 3:41:25 PM

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Hi Bob,

Yes - it is our understanding that prohibiting movable tiny houses is allowed within the definition of further regulation.

Warmly,
Phil

From: Whritenour, Robert <RWhritenour@yarmouth.ma.us>
Sent: Monday, March 30, 2026 3:21 PM
To: Dearing, Philip (HLC) <Philip.Dearing@mass.gov>; Peter Lombardi <plombardi@brewster-ma.gov>; Walsh, Matthew (HLC) <Matthew.Walsh@mass.gov>
Cc: Williams, Kathleen <kwilliams@yarmouth.ma.us>
Subject: Re: Seasonal Communities - Yarmouth

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Hi Philip,

Thank you so much for your outreach. I appreciate your follow-up on this matter. Here in Yarmouth, our zoning would allow fixed tiny houses, but would prohibit movable tiny houses. Is that a permissible form of regulation under the regulations, to prohibit movable tiny houses?

-Bob

From: Dearing, Philip (HLC) <Philip.Dearing@mass.gov>
Sent: Monday, March 30, 2026 9:44 AM
To: Peter Lombardi <plombardi@brewster-ma.gov>; Walsh, Matthew (HLC) <Matthew.Walsh@mass.gov>
Cc: Whritenour, Robert <RWhritenour@yarmouth.ma.us>
Subject: Re: Seasonal Communities - Yarmouth

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Thanks Peter. Bob - nice to meet you. The tiny homes provision doesn't at all impact the municipalities ability to regulate movable tiny houses, but happy to answer specific questions if you have them!

From: Peter Lombardi <plombardi@brewster-ma.gov>
Sent: Monday, March 30, 2026 8:57 AM
To: Walsh, Matthew (HLC) <Matthew.Walsh@mass.gov>; Dearing, Philip (HLC) <Philip.Dearing@mass.gov>
Cc: Robert Whritenour Jr. (rwhritenour@yarmouth.ma.us) <rwhritenour@yarmouth.ma.us>
Subject: RE: Seasonal Communities - Yarmouth

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Take 2 with less attachments...

Peter Lombardi
Town Manager
Town of Brewster
508-896-3701 x. 1128
plombardi@brewster-ma.gov

From: Peter Lombardi
Sent: Monday, March 30, 2026 8:50 AM
To: Walsh, Matthew (EOHLC) <matthew.walsh@mass.gov>; Dearing, Philip (EOHLC) <Philip.Dearing@mass.gov>
Cc: Robert Whritenour Jr. (rwhritenour@yarmouth.ma.us) <rwhritenour@yarmouth.ma.us>
Subject: Seasonal Communities - Yarmouth

Hi Matt & Phil,
I hope you are both doing well. I was recently talking to Bob Whritenour, Yarmouth Town Administrator (cc'ed), about the seasonal communities designation. It sounded like they have concerns about the zoning provisions around movable tiny homes. I know you address it in the FAQs and elsewhere, but I thought I would connect you directly so you could perhaps answer their specific questions.

<https://www.mass.gov/info-details/seasonal-communities-faq>

Thanks,
Peter

Peter Lombardi
Town Manager
Town of Brewster
508-896-3701 x. 1128



OFFERED BY **Executive Office of Housing and Livable Communities**

Seasonal Communities FAQ

Frequently Asked Questions for Seasonal Communities about the designation and tools available.

Seasonal Communities Frequently Asked Questions (FAQ)

How can a municipality gain a Seasonal Communities designation?

Can a Seasonal Communities designation be lost or revoked once it is accepted?

Do we have to use all of the tools available if we accept a Seasonal Communities designation?

If a Seasonal Community's zoning already meets the undersized lots and tiny homes requirements, does that community need to amend zoning?

What is the undersized lot requirement?

Can developers create new undersized lots to take advantage of this requirement?

What is the tiny house requirement and does it require municipalities to allow mobile home parks?

Why is the attainable housing rate at 250% AMI? Isn't that high?

Why does the definition of Year-round Housing Occupancy Restriction use 10 months rather than 12 months? Why are Seasonal Communities prohibited from allowing short-term rentals for less than 6 months on Undersized Lots?

Why aren't nonprofit employees or fishermen included in the employee preference options for communities?

Documents for reference

Contact

Seasonal Communities Frequently Asked Questions (FAQ)

Below are answers to Frequently Asked Questions that have been prepared for informational purposes. We encourage cities and towns to discuss their specific questions with municipal legal counsel, and for individuals to speak with their city or town and seek advice only from credible professionals.

How can a municipality gain a Seasonal Communities designation?

As of March 2026, 44 municipalities in Massachusetts have been designated as Seasonal Communities. 25 were designated through statute in the Affordable Homes Act and 19 others were designated by the Executive Office of Housing and Livable Communities (HLC) subsequently. Communities can complete an interest form on the HLC webpage if they want to be considered for designation.

Once designated as a Seasonal Community, the municipality must accept the designation for it to become effective. A designated community may, instead, reject the designation. Rejecting designation does not limit a municipality's ability to accept it at a later date. See 760 CMR 76.03.

Can a Seasonal Communities designation be lost or revoked once it is accepted?

Yes, the designation can be lost if it is revoked by the municipality or if it is revoked by HLC.

Designated Seasonal Communities may revoke the designation in the same manner as acceptance. See 760 CMR 76.03.

HLC may revoke a Seasonal Communities designation if the community fails to adopt the required zoning within 24 months of accepting the designation (or 24 months of regulations' promulgation, whichever is later) or if the community adopts the zoning on paper but does not meaningfully permit new residential

units that are applied for. As communities change, HLC will also monitor data on the criteria for designation and may revoke a Seasonal Community's designation if it does not satisfy the criteria for five or more consecutive years. The Seasonal Communities designation is an optional and collaborative tool for communities. This revocation ability ensures that the Seasonal Communities tools and resources are going to the municipalities that are most impacted and that are participating in the collective action required to ensure that there is sufficient year-round housing.

Do we have to use all of the tools available if we accept a Seasonal Communities designation?

No. All of the tools are optional. Communities are welcome to use some of them, but not others as they see fit. The only two requirements are to pass the zoning updates on undersized lots and tiny homes.

If a Seasonal Community's zoning already meets the undersized lots and tiny homes requirements, does that community need to amend zoning?

If current zoning meets the requirements laid out in regulations, a community does not need to amend its zoning by-law to satisfy the "shall amend" language included in regulations. This language is satisfied by a community having already amended zoning to allow the required undersized lot and tiny home development. Just be sure to review local zoning to ensure it meets all the provisions of the requirements. If local zoning already meets these requirements, you only need to send a copy of the zoning which satisfies requirements to HLC.

What is the undersized lot requirement?

Municipalities that accept their designation are required to amend their zoning to allow attainable housing units with year-round housing restrictions as-of-right on undersized lots wherever single-family development is allowed as-of-right or by special permit. The new zoning must allow development on undersized lots that are at least 10,000 square feet or 25% of the minimum lot size for a single-family home located in the zoning district, whichever is greater. Note that wastewater

and sewer system laws still apply to residential development on undersized lots as long as they aren't more restrictive than relevant federal or state regulations or are necessary to address one or more specific and articulable concerns directly related to public health, safety or welfare and such concerns cannot be reasonably mitigated by alternative means. This approach mirrors what some Seasonal Communities have already done: allowing for building housing on smaller lot sizes as long as it is used for year-round residences rather than for short-term rentals. While this is the minimum requirement for communities, municipalities are welcome to consider if this approach could be expanded to other lot non-conformities or if other housing development could be allowed on certain undersized lots.

Can developers create new undersized lots to take advantage of this requirement?

This requirement doesn't change existing rules on lot subdivision approvals.

What is the tiny house requirement and does it require municipalities to allow mobile home parks?

Municipalities that accept their designation are required to amend their zoning to allow tiny houses which have year-round housing restrictions as-of-right wherever single-family development is allowed as-of-right or by special permit. Tiny houses must meet size standards and be the principal dwelling of the lot they are built on to take advantage of this zoning requirement.

The requirement does not address mobile home parks and does not impact municipalities' ability to allow or further regulate movable tiny houses.

Why is the attainable housing rate at 250% AMI? Isn't that high?

Municipalities are not required to use the 250% AMI standard. They can set the standard at any rate of 250% of AMI or below. In some cases, the housing costs

and scarcity in Seasonal Communities are so extreme that even residents making more than double the area median income are unable to afford housing. The attainable housing definition supports communities to develop and preserve housing for year-round residents that don't qualify for affordable housing but can't afford market rate housing. The goal is to allow communities to serve the needs of residents most at risk of displacement, while allowing for flexibility for Seasonal Communities with different degrees of housing pressure.

Why does the definition of Year-round Housing Occupancy Restriction use 10 months rather than 12 months? Why are Seasonal Communities prohibited from allowing short-term rentals for less than 6 months on Undersized Lots?

These are timeframes provided by statute. The statute defines year-round housing as housing for occupancy as a principal residence for not less than 10 months a year. The 10 month requirement for Year-round Housing Occupancy Restrictions is a floor, not a ceiling. Municipalities may impose such restrictions for 12 months instead of 10 months but are not required to. The statute also makes it clear that any residential housing built upon undersized lots shall not be used as a seasonal home or short-term rental of less than 6 months. All dwelling units built on undersized lots must have Year-round Housing Occupancy Restrictions. As such, these two requirements, applied together, ensure that undersized lots are used for year-round housing and can't be used for short-term rentals.

Why aren't nonprofit employees or fishermen included in the employee preference options for communities?

The statute authorizes municipalities to establish a preference for public employees in units that the municipality acquires or develops. The preference must be for public employees that are necessary to the health and safety of maintaining the community. The statute provides examples, such as including teachers, public works employees, public safety employees, first responders, town

administrators and other employees essential for municipal operations. A nonprofit employee and a fisherman are likely not public employees and so would not currently be eligible for the preference.

Town of Yarmouth
MINUTES OF THE PLANNING BOARD MEETING OF
April 15, 2026

The Yarmouth Planning Board held a Hybrid in-person/remote access Business Meeting at **5:30** p.m. on Wednesday **April 15, 2026** in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

Planning Board Present: Tom Pendleton, Deirdre Gaquin, Susan Brita, Joanne Crowley, Peter Slovak, and Ken Smith

Planning Board Absent: Will Rubenstein

Staff Present: Kathy Williams, Town Planner

Guests: Bob Reedy, J.M. O'Reilly & Associates; John Lavelle, Baxter Nye Engineering; Bob Boynton, Colwell Group; and Dennis Kerkado, Bayridge Realty LLC

1. **Meeting Opening:** Chair Joanne Crowley opened the hybrid meeting at 5:31 PM. All Planning Board members were in-person.
2. **Approval Not Required ANR Plan #2936D:** Owner: Davenport Realty Trust; Property Location: 6 & 8 Miracle Way, Yarmouth Port, MA; Assessor Map 125, Parcels 39.1 & 39.2; R40 Zoning District. The ANR adjusts the lot line between 6 & 8 Miracle Way to provide adequate rear lot setback for 6 Miracle Way.

Ken Smith recused himself for this agenda item.

Bob Reedy, representing the Davenport Realty Trust, noted this was a simple ANR to slightly alter the lot lines as the bulkhead for 6 Miracle Way had been installed too close to the property line, creating a non-conformity. The ANR also shows a utility easement for 8 Miracle Way for the septic line. The two lots remain conforming to the Single-Family Cluster Subdivision dimensional requirements.

VOTE: On a motion by Peter Slovak, and seconded by Tom Pendleton, the Planning Board voted (5-0) to endorse ANR Plan #2936D prepared by J.M. O'Reilly & Associates, Inc., and dated April 1, 2026, with Tom Pendleton, Deirdre Gaquin, Susan Brita, Joanne Crowley, and Peter Slovak voting in favor.

3. **Village Centers Overlay District (VCOD) Site Plan Review (SPR) Application #2025-1:** Applicant/Owners: Bayridge Realty, LLC (Dennis Kerkado); Property Location: 645 Route 28 and 14 Appleby Road, West Yarmouth; Assessor Map 32, Parcels 136 & 137; Zoning Districts VCOD VC1, R25, B2, ROAD and HMOD1. The Applicant proposes to demolish the former restaurant building and construct a two-story mixed-use building including 11 apartments and approximately 2,400 square feet of commercial space, and related site improvements, utilizing Zoning Bylaw Section 414 – Village Centers Overlay District (VCOD) VC1.
 - a. **Presentation:** John Lavelle of Baxter Nye Engineering, representing the owner Dennis Kerkado, gave an overview of the project to replace a vacant restaurant with a new mixed-use building with 11 dwelling units and two commercial spaces, currently envisioned as retail and a restaurant on the two combined lots totaling 0.94 acres. The building has been designed to accommodate the proposed land taking from the MassDOT Route 28 Corridor Improvement Project, resulting in the building exceeding the maximum front yard setback from the current property line, but meeting it under the proposed conditions. Relief from the ZBA will be required. The curb cut and all utilities will be coming off Appleby Road with the Route 28 curb cut being closed. Stormwater will be handled on-site through a forebay and underground infiltration. Buffer and screening

landscaping has been provided, along with fencing in the rear of the lot. The corner area west of the patio will be landscaped to clearly denote the patio is located outside the Appleby Road setback. An enclosed bicycle storage area has been added to the rear of the building to address comments from the Design Review Committee. He also noted modifications were made to address Site Plan Review (SPR) comments.

Bob Boynton of Colwell Group gave an overview of the building and its architecture. He noted there will be ten 1-bedroom units of 750 square feet (sf) and one 2-bedroom unit of about 1,250 sf. Four of the 1-bedroom units will be Affordable. He further reviewed the proposed material colors including Shingle Siding in Cape Cod Gray; Clapboard Siding in Peppercorn (dark gray); and architectural roof shingles in Weathered Wood. Trim, doors, windows, gutters, and downspouts will be white. Balconies will have a white composite post with aluminum metal cable rail and light gray composite decking. Stone retaining wall will be a traditional new England field stone with white composite railing on top. Signs will have a white background with black lettering. He also reviewed the decorative style building mounted lighting and site lighting, both of a traditional new England style with black finish.

b. **Planner Report:**

Kathy Williams briefly reviewed her April 9, 2026 Planner Report noting some minor remaining items related to corrections to the Photometric Plan, adding minimum height of plants at time of planting in the Plant Legend, and need for a stormwater operation and maintenance plan. The question regarding the patio was answered during the presentation with the addition of plantings. She also had reached out to the Fire Department who confirmed they are satisfied with the access as shown. Ms. Williams also reviewed draft conditions for consideration by the Planning Board.

c. **Public Comment:** No written comments were received and no oral comments given at the public meeting.

d. **Planning Board:**

The Planning Board members viewed this project as a major improvement, the building looks great and the project is in line with the goals of our Local Comprehensive Plan. The members had various questions/comments, to which the applicant and applicant's representatives responded, regarding the number of seats in the restaurant (20 seats for small restaurant); will landscaping be irrigated (yes); will there be a freestanding sign (yes); how will the building be elevated (concrete foundation with grading around the building); is the stone wall a veneer (yes); will there be EV charge stations on the site (none are required at this time, but there may be some potential locations in the parking lot); and location of EV charging stations should not deter from the attractiveness of the site and building.

e. **Deliberations & Vote:** Without further deliberations, the Planning Board voted as follows:

On a motion by Susan Brita, and seconded by Ken Smith, the Planning Board voted (6-0) to approve VCOD SPR #2025-1 for the 645 Main Street Redevelopment at 645 Route 28 and 14 Appleby Road for a mixed-use development with 11 dwelling units and 2 commercial spaces as presented at the Planning Board meeting of April 15, 2026 and in accordance with the plans and materials submitted, subject to the following conditions:

1. The two parcels shall be legally combined.
2. Provide four (4) affordable units in compliance with Zoning Bylaw Section 412 and the Grant Agreement between the Yarmouth Municipal Affordable Housing Trust and Bayridge Realty LLC.
3. A Long-Term Stormwater Operations and Maintenance Plan shall be provided to the Engineering Department and shall be implemented by the identified responsible party.

4. Plant Legend shall denote the minimum height above finished grade required for trees and shrubs at the time of planting per Section 414.8.9.6.
 5. As part of the Zoning Board of Appeals application, submit a revised Photometric Plan showing footcandles at the property lines adhering to Section 414.8.10. All site lighting and building mounted lighting shall be a decorative style and shall not cause glare. Site lighting shall not exceed fifteen (15) feet in height above finished grade.
 6. Any relief required shall be sought through the Zoning Board of Appeals.
4. **Mattacheese Utilization Committee (MUC) Project:** Updates on the status of the MUC project. Kathy Williams noted that the MUC will be meeting on April 16th to review the three Concept Designs and Draft Report ahead of the May 12th Select Board meeting.
5. **Meeting Minutes:**
- a. **April 1, 2026: VOTE: On a motion by Susan Brita, and seconded by Tom Pendleton, the Planning Board voted (6-0) to approve the meeting minutes of April 1, 2026, with Tom Pendleton, Deirdre Gaquin, Susan Brita, Joanne Crowley, Peter Slovak, and Ken Smith voting in favor.**
6. **Board of Appeals Agenda & Decisions:** The attached ZBA Agenda and Approval/Denial Summary were sent to the Planning Board via email. Kathy Williams noted the approval of the Taco Bell at the corner of Station Avenue and Old Town House Road with conditions.
7. **Committee Updates from Board Members:**
- a. **Library Building Committee (LBC):** Tom Pendleton noted the three successful public sessions recently held to educate the public about the new library project. He indicated there were a lot of good questions and support expressed.
 - b. **Community Housing Committee (CHC):** Deirdre Gaquin noted the CHC meeting held on April 13th where they discussed the mixed-use project at 645 Route 28, the Habitat for Humanity Project off Wood Road and the townhouse project at 811 Route 28. She also noted the Yarmouth Housing Authority is seeking additional engineering information on water and environmental impacts related to the Forest Road property.
 - c. **Water Resource Advisory Committee (WRAC):** Ken Smith noted the WRAC met on April 6th. The sewer main along South Shore Drive has been completed but need to install sewer stubs, and the contractor is working on the pump station and paving. He noted progress on Pump Station 3 at the Parkers River Landing and sewer main along Route 28. Work on Route 28 will shut down for the summer, but the Contractor has asked MassDOT to work in Route 28 through the end of the school year. Work on the force main on side roads will continue in the summer. The treatment facility is looking for completion in late winter/early spring of 2028, although they are trying to meet the original September 2027 date. Some spot paving will occur on Route 28 to improve the roadway for the summer season.
 - d. **Community Preservation Committee (CPC):** Although unable to attend, Joanne Crowley noted that the CPC met on April 15th to run through the CPC Annual Town Meeting articles.
8. **Board Member Items:** None
9. **Correspondence:** The attached Correspondence was sent to the Planning Board via email.
10. **Staff Updates:** Kathy Williams noted she has provided a few slides for Zoning Article 29 for the Annual Town Meeting. She also indicated she was writing a Memo to the Affordable Housing Trust requesting to utilize the previously authorized \$25,000 towards vetting and implementing some of the recommendations from the mixed-use studies including updating the design standards. She would also be seeking funding from the Tourism Revenue Preservation Funds for Economic

Development projects to compile enough funding to go out for a request for proposals for a consultant.

11. **Upcoming Meetings:**

- a. April 28, 2026 – Annual Town Meeting
- b. May 6, 2026
- c. May 20, 2026

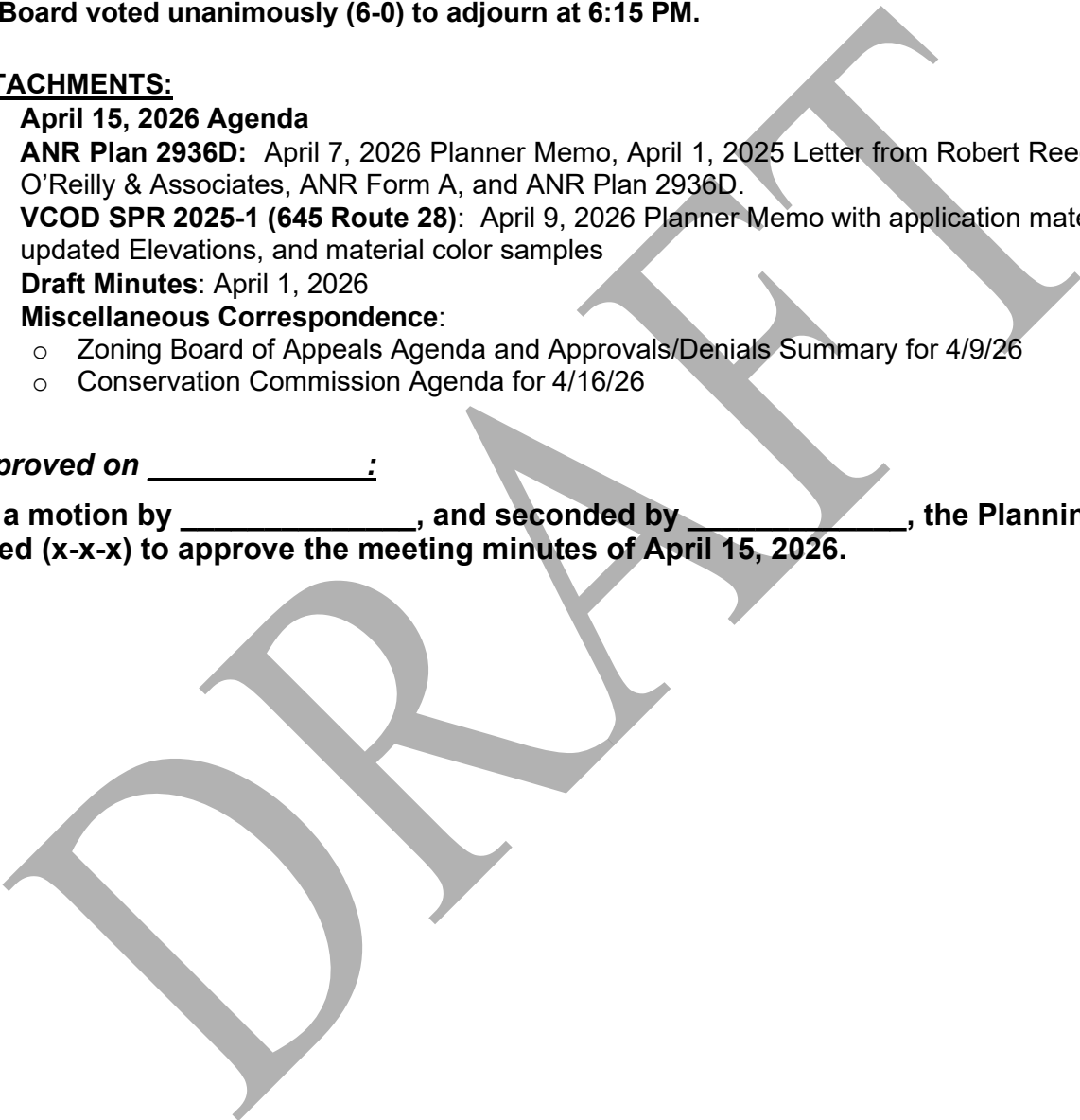
12. **Adjournment:** VOTE: **On a motion by Susan Brita, and seconded by Ken Smith, the Planning Board voted unanimously (6-0) to adjourn at 6:15 PM.**

ATTACHMENTS:

- **April 15, 2026 Agenda**
- **ANR Plan 2936D:** April 7, 2026 Planner Memo, April 1, 2025 Letter from Robert Reedy of J.M. O'Reilly & Associates, ANR Form A, and ANR Plan 2936D.
- **VCOD SPR 2025-1 (645 Route 28):** April 9, 2026 Planner Memo with application materials, updated Elevations, and material color samples
- **Draft Minutes:** April 1, 2026
- **Miscellaneous Correspondence:**
 - Zoning Board of Appeals Agenda and Approvals/Denials Summary for 4/9/26
 - Conservation Commission Agenda for 4/16/26

Approved on _____:

On a motion by _____, and seconded by _____, the Planning Board voted (x-x-x) to approve the meeting minutes of April 15, 2026.



Town of Yarmouth
MINUTES OF THE PLANNING BOARD MEETING OF
April 28, 2026

The Yarmouth Planning Board held a business meeting at 6:00 p.m. on Tuesday, **April 28, 2026** as part of the 2026 Annual Town Meeting held in the Auditorium at the Dennis-Yarmouth Intermediate Middle School at 286 Station Avenue, South Yarmouth, MA.

Planning Boards Present: Tom Pendleton, Deirdre Gaquin, Joanne Crowley, Will Rubenstein and Ken Smith

Planning Boards Absent: Susan Brita and Peter Slovak

Staff Present: Kathy Williams, Town Planner

1. **Meeting Opening:** The Annual Town Meeting was opened at about 6:05 PM by the Town Moderator:
2. **Zoning Amendment:**
 - a. **Article 29 - Zoning Amendment – VCOD Setbacks on Route 28:** Article 29 was moved as written in the warrant and explained by Joanne Crowley with the attached presentation given by Town Planner Kathy Williams. The Article readily passed by the requisite 2/3rds majority.
3. **Adjournment:** Town Meeting adjourned at about 10:55 PM.

ATTACHMENTS:

- April 28, 2026 Agenda
- Motion & Explanation
- PowerPoint Slides

Approved on _____:

On a motion by _____, and seconded by _____, the Planning Board voted (x-x) to approve the meeting minutes of April 28, 2026.