
YARMOUTH PLANNING BOARD MINUTES

May 10, 2023

I. CALL TO ORDER

Chair Holden called the meeting to order at 7:00 PM.

II. ROLL CALL OF MEMBERS

	PRESENT	ABSENT
Wendi Holden, Chair	X	
Janet Hansen, Vice Chair	X	
Hildy Ginsberg	X	
Mary Lynn Engel	X	
Jerry King	X	
Ian Cromarty	X	
Matt Schumacher		X

OTHERS

Erin Zwirko, Director of Planning & Development
Julie Dubovsky, Assistant Planner
Wendy Simmons, Administrative Assistant, Recording Secretary
Philip Saucier, Town Legal Counsel

III. APPROVAL OF MINUTES

Upon a motion duly made by Mary Lynn Engel, seconded by Hildy Ginsberg and carried by a roll call vote of 6-0, the minutes of the April 26, 2023, meeting were approved.

IV. COMMUNICATION

E. Zwirko gave an update.

- Chase Bank scheduled a pre-con meeting and will be breaking ground soon.
- The Climate Action Task Force will be presenting their Climate Action Plan on 5/23 at 6PM in the Log Cabin.
- A Comprehensive Plan event is scheduled for 6/12 at 6PM in the Log Cabin. More information can be found at planarmouth.com
- An LD2003 Listening Session is scheduled for 5/15 at 7PM in the Community Room at Town Hall.

V. PUBLIC HEARING ITEMS

A. OLD BUSINESS:

None

B. NEW BUSINESS:

1. Workshop Item: Implementation of LD 2003, An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions.

Maine cities and towns are required to implement the provisions of LD 2003 by July 1, 2023. While the law includes many different provisions, cities and towns must implement provisions for accessory dwelling units (ADUs), provisions for affordable housing development, and provisions for residential dwelling unit allowances. This

workshop is the third of at least four meetings with the Planning Board and will focus on the residential dwelling unit allowance provisions. Public comment will be received, and no vote will be taken.

E. Zwirko gave an overview of Residential Dwelling Unit Allowances. Municipalities must allow up to 4 dwelling units on a vacant lot in a growth area and 2 dwelling units on a vacant lot outside a growth area. They must allow the addition of 2 additional units if a lot already has 1 unit. If a lot has 2 units, no additional units are allowed. Municipalities can determine how to handle lots where units are torn down and may be more permissive; but must meet the minimum requirements. They may establish lot area/dwelling unit, but it cannot be more than the first unit requirements. Yarmouth's growth area was set by the 2010 Comp Plan and is largely made up of the Medium Density Residential (MDR) zone, but also includes Village II, Village III, CD4, CD4-C, SD-1, Commercial, Commercial II, Commercial III, WOC, Industrial & parts of General Development. All additional units must still meet minimum lot area requirements, setback requirements, water, and sewer or septic requirements. There are not many lots in the growth area with development potential. Questions to consider: How to find the balance between lot area requirements? How to handle tear downs? How to handle non-conforming lots? The ADU Amendment revisions and Affordable Housing Development Amendments were presented, can they be advanced?

Phil Saucier, Town Legal Counsel talked about the Municipal Role in Fair Housing/Short-Term Rentals. There are 4 basic provisions. The Planning Board has already worked on 3 of them in their previous meetings. The 4th is establishing production goals and measurable standards. The State has not provided much guidance on how to do this. Municipalities can regulate short-term rentals to meet production goals.

Chair Holden opened to public comment.

Ken Anderson, 32 Balsam Lane
Heartens him to see Yarmouth addressing LD2003 appropriately. He's seen other communities that want to extend the law and some towns that don't want it at all. Thinks it is a good idea but will need refinement moving ahead.

Ed Libby, 374 Route One
The original intent of the law was diminished at the last minute when a measure was added allowing towns the ability to limit housing based on lot size. The original intent of the law was to allow 4 units/lot regardless of size. The Town needs to consider amendments through the lens of fair housing otherwise the Town is open to legal challenges. Suggested everyone read the report City of Portland and Cumberland County Analysis of Impediments to Fair Housing Choices. The report includes court cases from around the country regarding zoning. He encouraged the Town to not wait on the new Comprehensive Plan; but to move ahead under the old Comp Plan which also includes Affordable housing as a goal.

Ed Ashley, 20 Spartina Point
Agrees with Ed Libby's assessment of not waiting for the new Comp Plan. The Town should establish their goals and build from the ground up. The Town needs specific goals, with metrics to be able to measure against. Don't wait for the State; but move

ahead on its own and independent of other towns in this region based on what makes sense for Yarmouth. Determine how much needs to be affordable and not wait for the State to define it. Suggested looking at zoning and the possibility of rezoning some LDR to MDR to create more opportunities. Suggested the creation of a map indicating lot sizes to see if smaller lot sizes are concentrated anywhere.

Carrie Martin, 316 East Main St.

Been attending the DCED meetings and this is very complex. Looking at the metrics there are very few lots available for development which will not make much of an impact. Questioned if there were 2 existing dwelling units does that mean that no more are allowed? Why? If there are 2 existing dwelling units can each have an ADU?

E. Zwirko – confirmed there is only 1 vacant lot in MDR which has 2 acres and is developable. Only 1 ADU would still be allowed, not one for each dwelling unit.

Public comment closed.

The Board questioned why the focus seems to be on 1 acre lots and single family housing. Why is there not more discussion about multi-unit housing or 3 story buildings which would dramatically increase density? Having only 1 lot available in MDR for development will not make any impact. They discussed the growth area and if there was an opportunity to develop outside the growth area.

The Board questioned what happens if the July 1, 2023 deadline is missed? E. Zwirko – The Town continues to make progress toward implementation, and if nothing is denied the Town should be able to avoid legal challenges. The Legislature may also intervene before July.

The Board questioned if there are any metrics or numbers anywhere because goals are repeatedly mentioned; but no numbers have been presented. Can the Town influence the goals? P. Saucier – The State has not set forth any numbers per region. E. Zwirko – There are regional numbers but no unique numbers to Yarmouth, although you could extrapolate a municipality's share. As the Town works through the Comp Plan process, a goal for new housing units will be more clearly defined.

The Board questioned what the current average lot size is in the growth area. E. Zwirko – MDR has 1763 lots with an average of 1 acre and median of .47 acres, LDR has 1052 lots with an average of 2 acres and median of 1 acre and RR has 478 lots with an average of 7 acres and median of 3 acres. 1325 of the lots in MDR are non-conforming.

The Board discussed how to deal with non-conforming lots, how to find the balance in housing, and how it will impact the community infrastructure. Should they consider minimum lot size? They discussed adding more to the Performance Standards to increase opportunities and allow more units. They discussed reducing the 1 acre minimum requirement for lot size, and consistency with the current comprehensive plan. The board requested additional data to understand nuance in the lot sizes, especially within the MDR. The Board discussed how implementation of LD 2003 is a different exercise than adjusting the minimum lot size in the Zoning Ordinance, and

the Board should not get bogged down on topics such as height which is relevant to the whole of the Zoning Ordinance but not likely to LD 2003 implementation.

The Board discussed how to handle lots where an existing dwelling unit is removed after July 1. The Board felt that it should be considered vacant for the purposes of LD 2003.

E. Zwirko asked for direction on next steps. Could the Affordable Housing and ADU amendments be advanced? The Board was not ready to advance those elements yet. They were not comfortable in making changes to lot size requirements. They want more data. The Board agreed that if a building is torn down or if a lot is conforming it would allow the State proposed additional housing units to be built. No decisions were made for non-conforming lots.

ADJOURNMENT

With no objection, the meeting adjourned at 9:15 PM.

Respectfully submitted:

Wendy Simmons, Administrative Assistant, Recording Secretary