

# Committee to Review and Assess Zoning and Review the Town's Use of Regulatory Agreements

James H. Crocker Jr. Hearing Room 2<sup>nd</sup> Floor Town Hall Building  
367 Main Street Hyannis, MA 02601

Councilor Jeffrey Mendes  
Councilor Matthew Levesque  
Councilor John Crow  
Councilor Kristen Terkelsen  
Councilor Charles Bloom  
Catherine Ledec  
Bob Schulte Chair  
Ken Alsman

October 18, 2024  
3:30PM

## MEETING MINUTES

Chair of Committee, Bob Schulte, opened the meeting of the Committee to Review and Assess Zoning and Review the Town's Use of Regulatory Agreements.

Chair of the Committee made the following announcement:

**In Accordance with MGL, Chapter 30A, Section 20, I must inquire whether anyone is recording this meeting and if so, to please make your presence known.**

Administrator of the Town Council took Roll Call: Members present: Councilor Jeffrey Mendes; Ken Alsman; Catherine Ledec; Councilor Charles Bloom; Councilor Kristen Terkelsen; Seth Etienne; Bob Schulte, Chair; Absent: Councilor Matthew Levesque; Councilor John Crow.

Chair of Committee read into the record the purpose of this Committee:

**PURPOSE:** Work with the Town's Planning & Development staff to review and reassess recently adopted zoning changes, review the Town's use of regulatory agreements, and make recommendations to the Town Council.

Chair of Committee wanted to again thank the public for their interest in the committee and their participation both in person and via the zoom link provided for public comment. He encouraged the public to submit comments either in person or in writing as well, by sending the email to [Cynthia.lovell@town.barnstable.ma.us](mailto:Cynthia.lovell@town.barnstable.ma.us) and put in the subject line AD HOC Zoning Committee, and she will distribute to the members once she receives them.

Chair of Committee mentioned a couple of housekeeping items; (1) several committee members and members of the public attended the Zoning Enforcement Compliance demo given by Mr. Florence and his staff, Mr. Schulte mentioned it was a good meeting and encouraged the other committee members who wish to see the demo, to reach out to the Administrator to the Town Council to schedule those sessions. (2) On the topic of zoning enforcement, Mr. Schulte has had several emails with President Penn, and the Legal department regarding the committee and including its observations and non-binding advisory recommendations of enforcement issues to the Town Council and or Town Manager, the legal department has expressed its legal opinion that the committees charge is to only cover the topic of zoning, and therefore zoning enforcement discussions should be excluded. However, in the Chair's conversations with President Penn, she agrees that the zoning enforcement is an extremely important topic that has been brought to this committee by the public. They have discussed the best way to resolve the concerns of the legal department, and the Chair plans on discussing this further with the legal department. Therefore, while we have received a number of letters from the public regarding this topic as well comments from members of the public today in attendance, he asks that the committee

members listen attentively to those comments, but not to respond to the comments regarding enforcement until he has had further discussions with the Legal Department.

Assistant Attorney Kate Connolly asked if she could clarify something that was said about the topic of zoning enforcement. She stated that the legal department did not say you could not talk about zoning enforcement and would like to read into the record Attorney Nober's response.

*Mr. Schulte,*

*The ad hoc committees that were created in April are advisory committees to the Town Council "to assist the Town Council in carrying out its responsibilities" (see Section 241-8 (B)(2) of the Town Code). As set forth in that section of the Code, "[a]d hoc committees shall be limited to a particular subject area and serve only in that capacity for a specific period of time" (emphasis added). Your committee was created with the specific charge to "review and assess recently adopted zoning changes, review the Town's use of regulatory agreements, and make recommendations to the Council." I note that the initial draft of this charge included language regarding the enforcement of regulatory agreements, but I removed that language from the final draft, with the Town Council President's concurrence, because enforcement involves executive and administrative functions, and, therefore, falls under the purview of the Town Manager. The same is true for enforcement of zoning.*

*To be clear, nobody is saying that the Town Council cannot discuss enforcement issues – of course they can, but I would expect that they would engage in those discussions with the Town Manager since those are issues under his jurisdiction, and the Town Manager reports to the Town Council. But it is important to keep in mind that the ad hoc committee is not the Town Council (and the Town Manager does not report to the committee). The ad hoc committee was formed for the specific and limited purpose of advising the Town Council – the Town's legislative and policy-making body – on recently enacted zoning changes and policy recommendations regarding how and when the Town should be using regulatory agreements. The committee, including the charge of the committee, was created by vote of the Town Council, and any expansion of the scope of the work of the committee should be made by the Town Council as a body, and not by the committee on its own initiative.*

*I also note that the Town Manager does not need to amend the Code to make or implement changes to how staff conduct their enforcement functions. With a few limited exceptions, Town staff report to the Town Manager, and he provides direction to Town staff, including direction if changes need to be made. As you know, the Town Manager is very responsive to concerns and issues raised by the Council. But the ad hoc committee was not created to advise the Town Manager on managerial or administrative issues. It was created to advise the Town Council on specific legislative and policy issues.*

*I hope this addresses your questions.*

*Thank you.*

*Karen L. Nober  
Town Attorney  
Town of Barnstable*

Committee member Seth Etienne, asked for clarification, this committee can discuss enforcement, but can't make suggestions for enforcement? Assistant Town Attorney Connolly stated, this committee can discuss enforcement but can't make recommendations to the Town Council on enforcement, those recommendations go to the Town Manager, so if you wanted to make an appointment with the Town Manager to discuss recommendation for enforcement, that is where this committee should start.

Chair of Committee mentioned a follow up email to President Penn, and there is a feeling that there may be a resolution to allow this committee to make those recommendations to the Town Council, that is what Mr. Schulte plans on discussing with Town Attorney, Karen Nober and President Penn about.

Mr. Schulte stated that enforcement is a huge issue, and this committee should be allowed to make recommendations to the Town Council regarding enforcement, and he is confident there will be more discussions on this and a follow up for this committee.

Chair of Committee asked for public comment for those in attendance and wanted to remind individuals at home that once public comment goes away, the public comment zoom link goes away, but you can still view the meeting via the streaming link

*Mr. David Hagerty, Centerville, retired police officer for the town, in his past experience when he would receive calls from residents to go out and look at the issue reported, he would hear from residents, why are you picking on me when my neighbor down the street is doing the same. Enforcement is an issue here in the town, his philosophy as a police officer was to treat everyone the same, residents from Osterville should not be treated any different from the residents in Hyannis, Centerville, and so on. He lives on a road that has 13 houses on the road and over the years he has seen the changes on his street, he has currently a boarding house with people coming and going at all hours of the night and day, a seamstress business running out of a home, a landscaping business, a full time daycare with people driving fast picking up the kids, and a cabinet maker. The residential homes on this street are not happy, and he stated that if he wanted to live next to all this, he would have bought a home in the Industrial Park. He doesn't know what can be done, but he would like the committee to look at this issue in residential neighborhoods.*

*Eric Schwaab, West Hyannis, mentioned he has worked with Councilor Betty Ludtke to write letters to this committee to express concerns they have, and he believes the committee has a couple of those letters in front of them today. He stated there were about 7 more letters written by what he believes are single mothers that are afraid to come forward because they know the town will not act on the complaint. They felt they would put themselves at risk if they spoke up. Mr. Schwaab has driven down Pontiac Street, LaFrance Avenue, and Mary Dunn, there are so many vehicles and equipment being stored at these residential homes, that it is becoming a safety concern for vehicles trying to get to their homes. The thought of you having to rat out your neighbor to get anything done is totally inappropriate.*

*Larry Morin, Cotuit, there is a lot of creativity and knowledge on this committee, and it needs to be recognized, this committee was given a huge task and have been given a lot of information from the public, and he commends this committee for not letting it go, the question becomes how do you use the information. He mentioned that he admires Mr. Schulte and his perseverance in pursuing with legal the discussions he discussed before, just because legal intervenes, does not make it right, so keep pursuing those discussions, he believes are important.*

*William Smith, Hyannis, he comes before the committee today as a friend and not an adversary, and believes that the officials in the Town are at a very critical point of change, the Planning Board from the past has been changed to represent now, in the planning he believed the planning had no pro active planning, it was all rushed, and when its rushed mistakes are made, mathematics always tells the truth, the zoning was changed for the Hyannis are and Hyannis is becoming a city. We must recognize the mistakes before we make it stone. He would like to see a coalition for Main Street Hyannis to re look at the building heights, we need to bring Hyannis back to the quaint village look, and not make it look like a city, we are a quaint village and need to remain that way.*

*John Julius, Hyannis, resident of Hyannis for a very long time, he agrees with the last speaker, he believes that we are all watching the destruction of our town, and especially the village of Hyannis, he believes that the Governor has no regard for Cape Cod of the village of Hyannis, he would like to see these matters on a ballot for the residents to vote on, we currently have thousands being squished into Hyannis, we have a serious water shortage, Lewis Bay is contaminated from the Barnstable sewer treatment plant, Lewis bay had closed shellfishing in Lewis bay in July, we had contaminated shellfish distributed from Lewis Bay, why is that, we can no longer afford to have any more building in Hyannis,*

*we do not have the infrastructure to support it, we need a building moratorium here. Cape Cod can only support so many business here, and you don't build more, we are over doing the building here. He believes that if this issue of building more in Hyannis was put on a ballot for the business owners and residents in Hyannis, it would be defeated by a landslide. There are 6 more villages to build in go build there. Hyannis is full.*

*Chris Kuhn, Hyannis, He is dismayed that the ordinance that was created in February of 2023 that changed the zoning in Hyannis was done before any in-depth analysis was done, to determine if there is enough water to accommodate the buildout, can the roads handle it, we are in a traffic redesign in Hyannis, wouldn't you figure out what our infrastructure can handle before you do more building, if your adopting ordinances on capacities, you must first gain the information to see if the infrastructure can handle it, he does not believe thus type of study was done. Can our police handle it, our hospital handle it, he is surprised that none of the studies were done. A smart developer would not put a big housing complex next to another housing complex, if we do not first get a handle on what we have or need, we need to know how much housing is needed compared to the job openings. He suggested the Cape Cod Commission to do a survey on these needs not just for Barnstable but for the entire Cape. It's disheartening to see Hyannis going the way it is going.*

*Susan Rome, Hyannisport stated my husband, and I watched our house being built in 1980. Our street turned out lovely, mostly owner occupants.*

*At least 10 years ago, 2 houses were built illegally on Ellsworth Road (bribes), which was an Ancient Way on town owned land. Our "dead end" (not officially) street now has 2 hidden houses cut into the woods of Ellsworth. They have been a huge problem since, known to the police and Betty Ludtke. A nightmare. It still is.*

*Recently, one house was purchased by an obscure LLC. It is used for a business called Nantucket Stone. The huge vans park all over the front yard, on the grass and stacked in the driveways. They receive stone tiles off the ferries, bring them to the house, unload them to vans and then distribute them to whatever sites.*

*#42's owner, Manuel and Ida Pineda told us they would be permanent owner occupants, leaving Nantucket. Then he told us his daughter and friends would be living there during college. Lots of cars. After that there have been up to six cars and trucks in and out of there. We pulled his Assessors report. It says that in 2019 they converted a sunroom to an "office". It says that they also finished the basement to create office space. However, others, not myself, have seen that there are bedrooms, a kitchen, a bath?*

*It seems consistent that multiple unrelated people live there.*

*A third house, I think #39 has an unknown owner to me, and has a high turnover rate over the years. They park anywhere creating spaces out of what was landscaped, No one wants to piggyback on their own driveways - you see this all over W. Hyport.*

*I have talked to:*

*Jeff Lauzon, Chief Local Inspector, whose office sent me to:*

*Ed Bowers, who is apparently the only building inspector in our Village of Hyannis, the largest one. I think he told me there is mostly 1 Inspector for each of the 7 Barnstable Villages. Ed advised us that the Health Dept. can go into the houses if overoccupancy is suspected and complained about.*

*Robin Anderson Health Dept, finally sent us to Tom McKean Chief Health Inspector, who called me back and came over here.*

*The health dept did come to #39 and either couldn't get in or room doors were locked, I cannot remember.*

*Mark Ells - I called him to ask why we don't have more Inspectors and Health Dept. personnel to enforce zoning violations as well as conditions inside these houses. He sent me to:*

*Andrew Clyburn - nothing came of that.*

*What happened to the following ordinances?*

*Chapter 160-1 Problem Properties, Chronic.*

*Regarding Ellsworth Ave. nothing has been done to "establish an active plan tailored to address the particularized problems and costs posed by specific properties. "*

*Chapter 170-4 Parking restrictions*

*speaks for itself - for some complicated reason Ed said he cannot tell anyone where not to park on their private property. At some point our property values will reflect the degradation of our street and our neighborhood, which is getting pretty derelict. Check out two derelict houses on Dolphin Road. They've looked like this for years. NOT FAIR to not quickly establish strict ordinances, budget and hire personnel to ENFORCE them.*

*Suzanne Kraft -email sent in from the Public*

*Bob, I am unable to attend your next zoning meeting as we are out of town. Your committee is doing such a great job. I just hope the Town Council will listen to and implement your recommendations.*

*However, before your next meeting I wanted to register with you that I vehemently protest any thought of "by right" zoning being enacted. The preservation of zoning and particularly single-family zoning is of paramount importance to protecting the character of a community, protecting the rights of property owners to live in low density areas and protects property values.*

*There are zones for multifamily and commercial use and those zones should be protected as well. Citizens and residents want choices on where to live and zoning offers those choices.*

*At the last meeting I was shocked to hear the head of the zoning department say he fields about 600 calls a year and half of those calls are not related to zoning. I couldn't help but think what a waste of his time! Perhaps there should be a clearing house for these calls before they reach him. It would give him more time to address zoning issues, maybe go out in the field and deal with these blatant violations, rather than wasting time fielding calls that don't pertain to his department.*

*Lastly, it was with dismay that I listened to Eric Schwaab who has this commercial enterprise next-door to him in a residential zone and the woman who spoke who has 4 or 5 families living across the street and an RV parked in the driveway with one or 2 families living in it!! All in a residential area, zoned for single families. Why are these people not getting relief? Why wouldn't the head of zoning speak up, he was there, and say we will take care of that within the week?*

*Those that are having trouble finding commercial space or housing are being given grace when the law-abiding residents pleas are being ignored. Rather than changing the zoning to accommodate 4/5 families and commercial entities being where they're not supposed to be why not enforce zoning laws that are already on the books?*

Public comment sent in by Martin MacNeely

*October 18th, 2024*

*Committee to Review and Assess Zoning and Review the Towns Use of Regulatory Agreements*

*Dear Chairman Schulte,*

*I am writing the committee to voice my opinion on one of your topics of discussion - commercial uses in residential zones.*

*Although, I am very sympathetic to property owners in neighborhoods where this issue has become an epidemic, I am also concerned for the hundreds of small business owners with limited areas/options for relocation. If not in residential zones, then where?*

*As all of you know this is not a new issue to the Town or the Cape as a whole. Has this issue become worse in recent years? Has enforcement of existing zoning regulations increased or decreased? Are there more service oriented businesses operating in Barnstable now than 5 or 10, or 20 years ago? What is the current availability of real estate to purchase or rent in Barnstable for commercial use. These are some of the many questions that need to be addressed before any meaningful progress can be made to address this issue in residential neighborhoods.*

*I feel it is pretty clear when a particular business has multiple vehicles, equipment, and employees working out of a house in a residential neighborhood and neighbor or neighbors complain about the operation, the town has an obligation to address this issue.*

*In contrast, there are many small businesses operating out of or storing a business vehicle or two in residential neighborhoods throughout our town. They may be a sole proprietor or have an employee or two that parks at the house. The property has no, or very little storage of materials and the business vehicles do not block access of the public or private way. Is this situation a problem too? If so, where do we send all these businesses. Are there enough properly zoned areas in town to keep or store all the equipment and vehicles associated with these small businesses. I don't believe there is, and what space is available is cost prohibitive for most small businesses.*

*I know there are neighborhoods that have been dealing with this issue for months or years without resolution. These situations can have a daily negative impact on a neighborhood when it is allowed to continue unchecked and ultimately can impact property values and residents' ability to enjoy their property.*

*However, my concerns remain, we all rely on these small businesses to provide timely service to our homes and businesses. As we know, it can be hard enough just to get someone to show up at our house. If we strictly enforce zoning regulations, increase town staff to take legal action against commercial activity and make it tougher for these small businesses to exist than what will be the end result?*

*Please consider the impacts to all parties involved when making recommendations to the full Council.*

*Thank you for your time.*

*Sincerely,*

*Martin MacNeely*

Sent in from a member of the public who wished to remain anonymous:

*Hello Cynthia - I have been asked to provide some brief background on what has been happening on this street with regard to the commercialization of residential neighborhoods.*

*I will try to be brief, although "brief" does not at all describe our battles here. First, we have had an ongoing issue with Olivo landscaping. When I first complained, it took quite a while for someone to visit the address. After that, the business owner was finally asked to submit a Home Occupation permit. After that, they were still not in compliance, but the Town Manager sent me a rather rude letter (at least I thought so) telling me that all was well.*

*All is **not** well. These guys are running a commercial business from the back yard of a house that they apparently rent on Woodland. Their back yard opens up to Pontiac and they park their work vehicles there. Multiple work vehicles - work truck with trailer, dump trucks, trailers with equipment on them, bobcats, other stuff, leaf blowers, snowplows, etc. They **SPEED** up and down the street. The owner and his workers. It is rather terrifying. To me, the house is a residence and should be used as such and they should be parking their work trucks, dump trucks, trailers, bobcats and snowplows elsewhere. We're not talking ten vehicles, but more like five or six. Still not in compliance. During the day, they speed up and down the street, evidently returning to get supplies, power wash their vehicles, whatever. I don't know if I would call this a "Home Occupation", but I guess there is no other way to classify it.*

*Second problem here is the overcrowding situation at 64 Pontiac. Enforcement has been attempted, and I realize and appreciate that, but we continue to have way more than four unrelated individual adults living there. They switch around quite a bit so there do not seem to be steady tenants, but it is run more like a flop house/boarding house type of thing for workers. I have seen as many as **EIGHT** overnight work trucks there. Also, there are multiple **SPEEDING** pickups and drop offs in the morning and evening. Paint Doctor, WE Carpentry, Jimmy's, the list goes on. At one point, I was taking license plates down but there are just too many. One early morning while I was out walking, I saw five cars in the driveway and three guys get into the WE Carpentry truck that was picking them up. That day, the driveway was empty. So, there were five guys who drove to work and three that had gotten rides. That's eight guys living in one tiny house. The landlady says she is cooperating, but she turns the blind eye and lives off Cape. Whenever anyone gives them a heads up that they are being looked at, they manage to disappear. This has significantly brought down this neighborhood - between Olivo and these guys, we are now a very busy dead-end street with lots of speeding commercial traffic. To me, she should have tenants on a lease, no more than four, and stop trying to pretend that they are just having friends over.*

*Olivo guy is a nasty guy, and I do not want to give him the opportunity to retaliate so **PLEASE** I do not want my name used publicly. I'm sure you understand. I seem to be one of the few individuals here who is willing to come forward, but I have spoken to **SEVERAL** neighbors, and we are all disgusted and feel somewhat helpless. It's a humble neighborhood but it doesn't have to be a crappy one and it didn't used to be.*

*Oh, my goodness, I was not brief was I. Sorry about that! I hope this helps. I have **LONG** given up at this point. Feel free to contact me if needed.*

Public comment sent in by an individual that wants to remain anonymous:

*Dear Mr. Schwab and Ms. Lovell,*

*I appreciate Mr. Schwab's email and request that I send this to Ms. Lovell. If we can attend the meeting today, we will be there. We are trying to make room in our schedule.*

*The problems with businesses on our street started almost the day we purchased the house on 48 Pontiac. More recently, we've had problems with the home two doors down from us (I believe that is 64 Pontiac) as well. It is clearly being used by the owner to provide housing for her employees. It is overcrowded and noisy. The people in the home drive in and out at high speeds.*

*As for the business, Olivo Landscaping, that is on 82 Woodland St. Olivo landscaping put in a driveway from that address to Pontiac. We suspect that the driveway was put in without permits. The people on Pontiac certainly weren't given an opportunity to comment on the change. Olivo's trucks were racing back and forth on the street. They have caused damage to property (knocking over someone's mailbox) and nearly ran another pedestrian off the road. When that person complained, the driver called them a word I'm not going to repeat. After that I became involved and took pictures. Then I was threatened by the owner with vague comments that were obviously meant to intimidate but just short of being something we could bring to the police. The owner of Olivo said things like, "You had better stop, I'm warning you." On one occasion I was simply out for a walk on a nice day and was threatened like this by the owner of Olivo.*

*Furthermore, Pontiac is a private street that is not built to withstand the speed and weight of Olivo's trucks and so there is obvious erosion from overuse. I put in a call to the officer in charge of traffic enforcement who was very helpful. It is my understanding the traffic officers stepped up their efforts and handed out a number of tickets. That appears to have made an impact, and we are seeing less traffic, but it still persists. Now the biggest problem is the dust and noise. Some days there is a cloud of dust over the area as the crew at Olivo does something noisy, we don't know what, but it's noisy even with our doors and windows shut and makes the air filled with dust.*

*In response to our previous complaints, I was sent an email with an attached PDF in February of this year by Brian Florence. The letter was condescending in tone, and we were offered no recourse. It felt like we were being told, "too bad for you, the town will do nothing." Frankly, that is a terrible way to treat the citizens and if it is true, then the zoning laws need to be changed.*

*I'm a retired pastor, currently working as a mental health therapist. My life partner is a social worker. I believe we are the sort of folks Hyannis would like to live here and indeed we had come here with the intention of staying. But we are near the end of our rope. Between the high-speed traffic on Main Street that is not enforced (I know that is not in the committee's scope but it's worth mentioning), the noise of the neighborhood from the business on the street, as well as the lack of action from the town we are giving serious consideration to moving to a quieter area.*

*I hope the committee working on zoning issues can make some progress and assure citizens that something will change for the better.*

Chair of Committee thanked all the residents for public comment and closed the Zoom link for public comment.

Chair of Committee reviewed the correspondence from members of the Public.

Councilor Mendes said he understands that this committee can't talk enforcement, but its hard not to when your talking about Zoning in general, years ago when these small home occupations started there may have been one or two small pick up trucks parked in a driveway, now there are tractor trailers in every neighborhood in Hyannis, he believes this town should have a separate enforcement office that deals only with enforcement, period, and he believes that this will solve most the problems, not all must most. He does not want to see anymore large-scale buildings for housing being proposed for Hyannis, and he will not support any new applications coming in for the village of Hyannis. Hyannis is at capacity with the traffic, individuals in Hyannis deserve to be able to get from one place to another without being stuck in a traffic jam, there are 6 other village that need to be built in, there is space in the

other villages, and for it all to be in just Hyannis is wrong. Our kids in Hyannis deserve better, they should be able to play in the streets, and they can't because of the number of cars and the number of individuals central in Hyannis. We need to spread out the building.

Councilor Bloom agrees with everything Councilor Mendes said, these residents that come out to speak are here to save Hyannis, and he thanks them for coming out. There are a lot of people out there angry about the overcrowding in Hyannis and the trucks in our neighborhoods, he met a lot of them on the campaign trail when he was running for office. There needs to be some way to address this issue, he does not believe just by changing the zoning that change will come. What is Barnstable trying to obtain, do we even know that? He is not for 4 story buildings on Main Street. We need to do better, and we need to do better for Hyannis.

Councilor Terkelsen would like to take Mr. Kuhn's comments on the data regarding the resources we have. Councilor Terkelsen attended a meeting recently with a Fire Department official and she asked if they were able to handle the buildout. The Fire department replied we believe when the building was built, we took into consideration of 50 to 100 years out and believe they can handle it. She can sympathize with the residents in the neighborhoods, and wanted to reiterate that you can make a complaint anonymously without the individual know who complained, and she encourages people to call. She believes the quality of life in our neighborhoods have been diminished due to the number of trucks and noise created now more than before.

Ken Alsman stated that this town is in the common dilemma when building a city, it's a matter of fixing the issues in the city before moving forward with more. The essence of planning is doing just what the town seems to be doing with changing the direction of Main Street and South Street that is planning, it's the ability to look at an issue that is causing concern and fix it. Other concerns are the rebuilding of our bridges, when this process happens, are we really expecting the traffic to flow now over 4 bridges, is that the amount of people coming to the Cape. On the issue of enforcement have we defined what a residential neighborhood is, and if not, we need to do that. Then you can define the zoning that fixes neighborhoods, does Barnstable have a Zoning Court, because the people that are violating the zoning held accountable, if not then the bad behavior will repeat. How to take the residential zoning and define yes you have an issue, or no you don't. We need clearly defined rules on what you can and can't do in residential neighborhood, then if there is a violation, it can be enforced.

Seth Etienne stated that most of the building happens in Hyannis because it's a hub with the transportation offered, and we have the land to do it. In the other Villages there are challenges because of conservation restrictions, or other types of protected land, so that is an issue when we talk about the other Villages.

Councilor Terkelsen mentioned the issue also is good paying jobs here, most are labor jobs, and not the high-tech paying jobs that Boston has or the suburbs around Boston. Most of our jobs are laborers that work in our grocery stores, and our landscaping businesses. If we build more there is no way to have a certain type of people move into them, we can't just build a building with the hopes of an accountant or lawyer move in that can afford it.

Councilor Mendes stated that Barnstable was not designed to handle the amount of people here currently. Our roads and infrastructure do not have the grid to handle the population we have currently, we were not made for this.

Chairman Schulte mentioned that its clear that with all the comments made this evening that there is a real issue, and he appreciates all the activity that has happened in this committee, he appreciates the conversation that the committee members have with each other in a civil way.

James Kupfer, Director of Planning and Development introduced the following:



**Town of Barnstable**  
**Planning & Development Department**  
[www.townofbarnstable.us/planninganddevelopment](http://www.townofbarnstable.us/planninganddevelopment)



## DRAFT

October 11, 2024

To: Committee to Review and Assess Zoning and Regulatory Agreements

From: Jim Kupfer, Director, Planning and Development

**Re: Potential Amendments to Chapter 240 Zoning Ordinance and Map**

At the September 6<sup>th</sup> meeting of the Town Council Ad-Hoc Subcommittee entitled Committee to Review and Assess Zoning and Regulatory Agreements, the Planning and Development Director provided a comprehensive list of amendments to Chapter 240 Zoning Ordinance that have been approved over the last 20 years and facilitated a discussion identifying each. In that presentation, the Director provided an overview of the zoning ordinance and provided a general overview of each amendment. The discussion led to committee conversation as to which amendments they wish to further discuss. The request at the conclusion of the meeting was for the Planning and Development staff to expand on specific recently amended zoning changes including Exempt Uses and Downtown Hyannis Zoning. The Committee also identified the need to discuss short-term rentals and inclusionary housing.

Subsequently, on September 20 and October 4, 2024, the Committee reconvened to discuss the matter further. Below please find the main topic areas discussed as possible ways to improve the ordinance and recommendations for further discussion.

Potential Chapter 240 Policy or Ordinance Amendments

***Exempt Uses***

The Committee requested to review §240-8 Exempt Uses in the Zoning Ordinance. Staff presented the section in whole to the Committee.

Committee members suggested that there was a lack of regulation surrounding exempt uses, specifically municipal uses. A committee member noted that better management of municipal properties is necessary to provide a model standard for those required to meet the zoning ordinance that the Town has set forth and that enhanced standards in §240-8 may be necessary.

Potential Recommendation to Town Council: The Committee recommends Exempt Uses, §240-8, establish standard policies or that §240-8 be amended by adding certain standards for municipalities to adhere to for site development when proposing new construction or substantial alterations.

### ***Downtown Hyannis***

Chapter 240 §24.1 through 13 of the Barnstable Zoning Ordinance is defined as the Downtown Hyannis Zoning Districts and includes the Districts' development standards. These sections were amended February 2, 2022. The Committee requested to review the entirety of the Downtown Hyannis Zoning Districts. Staff presented the section in whole to the Committee.

Committee members highlighted several issues they would like to discuss further. Those items being parking ratios, heights of structures, architectural design features, and the districts as defined on the zoning map. In addition, while not specified in the Chapter 240 §24.1 through 13, the Committee also raised concern over the Inclusionary Housing Ordinance, the uniform requirement of 10 percent of the units being affordable as insufficient, as well as a potential need to prohibit short term rentals within these districts.

Staff presented each item requested more specifically at a subsequent meeting. The Committee noted the following:

**Parking** – The Committee suggested that the parking ratios for residential dwelling units may need to be adjusted and studied further as one space per unit may not be enough for future development.

**Building Height** - The Committee suggested building heights may also need to be adjusted. The Committee noted that the zoning may want to consider a more nuanced approach to building height considering abutting properties, roof lines, and varying heights over linear feet to reduce the likelihood of a canyon effect along Main Street.

**District Boundaries** – The Committee has begun discussing potential amendments to the Downtown Hyannis Zoning Districts. The Committee raised concerns about the outer parcels and potentially reducing heights and density as parcels get closer to the outer limit of the Downtown Hyannis Zoning Districts.

**Inclusionary Housing** – The Committee has noted that with the updating zoning, the Town is creating a large number of new housing units. The Committee raised concern over the number of these units that would not be deed restricted affordable. The Committee suggests that the Town Council may wish to consider requiring additional affordability requirements either in the Downtown Hyannis Zoning Districts or in Chapter 9 of the General Ordinance, townwide.

**Short Term Rentals** – Similar to above, the Committee has noted that with the updating zoning, the Town is creating a large number of new housing units. The Committee raised concern over the number of these units that may result in short-term rentals. The Committee suggests that the Town Council may wish to consider requiring a prohibition of short-term rentals either in the Downtown Hyannis Zoning Districts or added as a General Ordinance, townwide.

**Potential Recommendation to Town Council:** The Committee recommends Town Council consider amendments to Chapter 240 §24.1 through 13 and the zoning map. The Committee shall continue to work through specific issue areas to provide a comprehensive list of suggested amendments.

Chair of Committee thanked Mr. Kupfer for the memo and would like to ask the committee members if they had any questions regarding this memo. The Committee members will discuss this memo at the next meeting.

The Chair of the Committee mentioned he had requested an extension from President Penn for this committee, and was granted an extension to February 28, 2024, if this committee finishes before great, but if not, know we have the extended time.

Chair of Committee asked Assistant Town Attorney if she had any more comments on the parking concerns raised at the September 6, from Councilor Crow regarding litigation on a case in Osterville. The following statement was made by Assistant Town Attorney Connolly:

*I see that the agenda has “follow up discussion of additional parking information” relating to the sections of the Zoning Ordinance that govern parking. As the agenda notes, I had provided those sections to the Committee. As I noted at an earlier meeting, they were given at the Committee’s request following the discussion about the lawsuit involving a board of health parking regulation that was challenged because it was not part of zoning. President Penn then correctly pointed out to me that there is a section in the Zoning Ordinance that should have been removed and we have informed the Town Clerk so that is being done. I can report that to the Committee, but otherwise I am wondering why this is again on the agenda so that I can be prepared, especially if I am being asked to present something.*

9/6/24, 9:00 AM

Town of Barnstable, MA Purpose.

Town of Barnstable, MA  
Friday, September 6, 2024

## Chapter 240. Zoning

### Article VI. Off-Street Parking Regulations

#### § 240-48. Purpose.

It is the purpose of this article that all new, expanded or intensified uses within the Town provide adequate off-street parking.

#### § 240-49. Applicability.

No use shall be intensified, except for single-family detached dwellings, without providing adequate off-street parking as provided herein.

#### § 240-50. Computation.

Existing parking spaces may be counted to meet the minimum off-street parking requirements for an intensified use only if it can be demonstrated that they are not used as of right by existing uses and are exclusively available as of right for said proposed intensification.

#### § 240-51. Location of parking spaces.

[Amended 11-15-2001 by Order No. 2002-029; 7-21-2016 by Order No. 2016-166]

- A. All off-street parking spaces required by this article shall be located on the same lot as the use for which such spaces are required, except that in nonresidential districts, parking spaces may be located on another lot within 300 feet of, and in the same zoning district as, the use for which such spaces are required.
- B. Parking facilities, including those governed by § 240-24.1.11. The site development standards in §§ 240-24.1.11A(4)(d) and 240-24.1.10, Hyannis Parking Overlay District, may operate parking lots in other locations and propose shuttle service to transport patrons from these remote lots to their desired destination. Such proposals shall be subject to site plan review.

#### § 240-52. Design and screening standards.

[Amended 3-11-1999 by Order No. 99-056]

- A. Each off-street parking space shall have minimum dimensions of nine feet by 20 feet excluding the driveway to such space.
- B. Drainage facilities for each parking area shall be designed and constructed to contain stormwater runoff on the premises.

<https://ecode360.com/print/BA20437?guid=6559618,6559619,6559620,6559621,6559622>

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- C. Parking areas for five or more cars shall be designed with enough maneuvering space so that vehicles need not back onto a public way.
- D. No parking lot shall be illuminated so as to cause glare for motorists, pedestrians or neighboring premises.

Chair of the Committee asked the members for additional dates from members to meet November 01 and November 15, 2024.

Chair of Committee asked for a motion to accept the meeting minutes of October 4, 2024, as written, the motion was made by Councilor Kristin Terkelsen, this was seconded by Seth Etienne all members voted in favor of accepting the meeting minutes as written except for Councilor Mendes who abstained

Chair of Committee asked for a motion to adjourn, this motion was made by Councilor Terkelsen, and seconded by Councilor Bloom, all members voted in favor of adjournment

ADJOURN: 6:03pm