
THE QUALITATIVE EFFECTS OF LAND USE MANAGEMENT: A CASE STUDY OF
CHANGE IN YARMOUTH.


by

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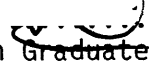
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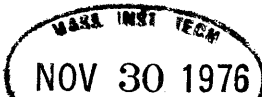
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Susan F. Gibbons

This thesis is an attempt to develop a methodology to assess the impacts of zoning decisions on visual quality. A system for recording zoning decisions and measuring visual quality is proposed and then applied to a single municipality as a test.

A set of visual qualities was defined in terms of quantifiable components. The proposed method of measurement was a comparative one. An area was chosen within the municipality which was generally regarded as having 'good' visual quality. The occurrence of the previously defined components of visual quality were compared for this good area, with the occurrence in 'bad' areas, i.e. areas which were perceived as having visual problems. This resulted in a limited set of components of visual quality which contributed most to the difference between the good and bad areas.

A detailed history of zoning actions, both legislative changes to the Zoning By-Law and administrative decisions of the Board of Appeals in granting special permits and variances, was compiled. Then some conclusions were drawn about the ways in which these actions had affected the visual qualities of the areas which had been analyzed in detail.

Thus a relationship was established between how zoning actions could have impacted visual quality, and recommendations for changing these zoning actions could be proposed.

If the methodology is successful in terms of drawing conclusions which are meaningful to the community and providing useful information for making policy decisions, it could be applied in other urban and suburban situations to improve people's understanding of the relationship between zoning and visual quality.

Thesis supervisor: Philip B. Herr, Associate Professor, DUSP.

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Chapter 1:

Introduction

Purpose of the study

This study is an attempt to develop a methodology to assess the impacts of zoning decisions on visual quality. A system for recording zoning decisions and measuring visual quality is proposed and then applied to a single municipality as a test. The test will have proved successful if: conclusions that are meaningful to the community can be drawn about the zoning actions which have had most impact on visual quality; and if these conclusions provide useful information for formulating policy recommendations to change zoning law and administration.

If the methodology is successful in the case study then it can be applied in other urban and suburban situations to improve people's understanding of the relationship between zoning and visual quality.

Sensuous quality of the environment

In recent years, increasing concern has been shown for environmental quality issues at the town, city, regional, and even national levels. The federal and state environmental protection laws reflect this concern in relation to ecological, social and economic impacts. At the same time some cities and regional planning agencies have become more aware of the sensuous aspects of quality in the large scale environment.

'Sensuous quality' is a term coined by Kevin Lynch¹, concerned with the impact of all aspects of the environment on the human senses -- sight, hearing, touch, smell and taste. Though all are important determinants of quality, sight, because it is the most highly developed sense in most human beings, has been studied most frequently.

Michael and Susan Southworth² found only twelve studies which have been carried out in the last twenty years, which had focused on sensu-

ous quality at the city-wide scale. A common failing was that the environmental qualities considered were not clearly defined even when operational definition would have been relatively easy. The comprehensiveness of the studies varied but all showed some concern for visual quality, others included micro-climate, noise, smell, safety, comfort, health and maintenance.

Zoning as a planning tool

"The most widely employed land use control today is zoning, it is in fact the workhorse of the planning movement in this country"³.

All fifty states have zoning legislation though the scope of powers varies widely from state to state. Because zoning is such a widely used tool, which had been controlling land use and development for over fifty years the quality of the environment has been substantially affected by zoning actions. Yet there are few studies of the consequences of zoning on environmental quality.

Natoli⁴, using Worcester Massachusetts as a case study, examined the impact of zoning on developed land use patterns. He made the assumption that the zoning map is an expression of planning goals and the degree to which these goals are achieved can be measured by mapping the deviations from the original zoning map.

In a study of two small areas of Brookline, Massachusetts, Livengood⁵ documented the impacts of zoning and subdivision ordinances and investigated the relationship between development pressures and amendments to the regulations.

However, neither of these studies made a specific attempt to assess

the consequences of zoning on environmental quality. No major studies have related sensuous, and particularly visual, quality to zoning decisions.

The purpose of zoning

The creation of good visual quality is not the primary purpose of zoning, though there is no universally held concept of what the real purpose is.

Babcock⁶, finds two widely accepted theories: the property value theory; and the planning theory.

Under the property value theory the 'proper' zoning of land is determined by market forces. Every piece of property should be zoned so that the sum of the values of property, community-wide, is a maximum. It follows that there is a calculable 'right' zoning for every piece of land. Though aesthetic considerations do not enter directly into this concept, yet visual quality is an important element contributing to property value. Thus many zoning actions are concerned with maintaining aesthetic standards, for example, setback requirements for suburban houses, which will contribute to increased value. At the very least zoning is used to prevent nuisance and obnoxious uses which would detract from surrounding property values, but generally the use of zoning is more positive, and aesthetic control are used to increase property value.

The planning theory suggests that the zoning ordinance should be based upon a plan. That plan would reflect the local community's collective goals and objectives as regards land use. In this case zoning

is an administrative tool for achieving those ends, and implementing the town's master plan. In as much as the master plan normally reflects the community's goals as regards visual character, aesthetic concerns are also important to zoning according to this theory.

Thus though neither the property value theory nor the planning theory suggests that environmental quality is the primary aim of zoning, aesthetic concerns are important to both.

Many communities are trying to maintain the quality of their environments under increased zoning pressures. Development is regulated by zoning, and zoning ordinances have been changed in order to solve some of the visual problems which certain types of development have created. For example, some communities have adopted provisions for encouraging planned unit developments partly because this type of development does not create the same amount of monotonous suburban sprawl. Therefore, it is useful to analyze and evaluate the ways zoning has affected environmental quality.

If visual quality is a problem and zoning has been used in some cases to maintain or improve aesthetic character it is important to understand how all zoning actions have influenced visual quality, whether or not their primary purpose was to do so. An understanding of the relationship between visual quality and zoning decisions would lead to more effective regulation of visual quality in the future.

History of zoning

New York City adopted the first zoning ordinance in 1916, but it was not until the landmark decision in *Euclid vs. Ambler Realty Co.*⁷,

in 1926, when the U.S. Supreme Court upheld the constitutionality of zoning that it became a widely practiced and uncontroversial planning tool.

Because in the beginning zoning was classified by the courts as an exercise of the police power of the state, related to the power to adopt regulations to promote health, safety and general welfare, local municipalities have no power to adopt zoning laws until the state legislature has delegated that power to them by a statute, commonly known as the enabling act⁸. Towns are only able to adopt zoning legislation which conforms to the particular state's enabling act and these vary widely in scope.

Massachusetts originally passed its enabling statute in 1920. This legislation has been changed and supplemented many times since then. The Act authorized any city or town to adopt zoning regulations for its territorial area. Such regulations may only be adopted after due notice and public hearings.

The regulations:

"shall be designed, among other purposes, to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and to increase the amenity of the municipality.

Due regard shall be paid to the characteristics of the different parts of the city or town, and the ordinances or by-laws established hereunder in any city or town shall be the same for zones, districts or streets having substantially the same character; and

such regulations and restrictions shall be made with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city or town"⁹.

To carry out these objectives authority is granted to:

"regulate and restrict the height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes.... (to) regulate and restrict the erection, construction, reconstruction, alteration or use of buildings or structures, or use of land"¹⁰.

Non-conforming uses, in existence prior to the adoption of a zoning ordinance, are allowed to continue, and provision is made for a Board of Appeals to grant variances in cases where individual hardships would be brought about by strict compliance with the letter of the law. The Board of Appeals is also authorized to grant special permits for certain uses in specific areas as laid out in the zoning ordinance.

During 1975, the Massachusetts law was changed significantly. Communities are now authorized to transfer some of the functions of the Board of Appeals, in particular the issuance of special permits, to the Planning Board, if they so desire.

This study may be able to offer some conclusions about whether such a change could improve the performance of zoning in terms of the resultant quality of the visual environment.

Chapter 2:

Outline of Methodology

Data collection

In order to study the effects of zoning actions on visual quality the history of zoning legislation and administration in a particular municipality must be known. It is essential to research what zoning actions have been taken by the Planning Board and Town Meeting, in designing and implementing changes in the Zoning By-Law and Zoning Map, and by the Board of Appeals in granting variances and special permits for exceptions to the By-Law. Ideally such information should be collected for a period of at least twenty years in order to cover a substantial amount of development activity. In this particular study time constraints meant that information could only be collected for a thirteen year period, 1962 - 1975.

Definition of visual qualities

As Michael and Susan Southworth have pointed out:

"If a (visual) quality can be operationally defined and methods of measurement developed, then it is more likely that something can be done about the quality within the public sphere. By removing such qualities from the realm of intuition, enforceable controls can be established and a reference point can be provided for public debate".

Thus it is essential that visual qualities are clearly and unambiguously defined in terms of a set of measurable components. For the purposes of this type of study, where restricted time and resources have meant that the number of visual qualities examined will be limited, it is important that the defined qualities conform to the following criteria:

1. They have been regarded as important in several previous studies, and are thus well grounded in the theory and litera-

-
- ture of visual quality.
2. Methods can be derived for measuring them in a scientific way. This means that the results are reproducible by independent experimenters.
 3. It is possible to control them through zoning legislation and administration.
 4. They make a significant contribution to the visual character of the place being studied.

It is my contention that visual quality is to some extent place specific, therefore, visual qualities must be defined separately each time the method is applied.

Method of measurement

Developing methods of measurement is however not an easy matter. Alcira Kreimer¹² describes many of the problems relating to efforts which have been made to quantify the unquantifiable. New methods of measurement have to be found which are reasonably objective and reproducible but which do not lead to the over-simplification of complex problems.

The method developed here relies on making comparisons rather than attempting absolute measurements.

If an area can be found, within the municipality being studied, which is regarded as having 'good' visual quality by a majority of the population, this can be used as a standard against which to compare other areas. Areas, which are particularly interesting because they have visual problems, can be compared with the 'good' area. If the visual qualities have been defined in quantifiable terms then it is possible to see whether, or how much of, a visual quality occurs in the

'good' and 'bad' environments. If a particular component of a visual quality is evident in the good environment but not the bad, then it can be concluded that this component is likely to contribute to the creation of pleasing visual character. Similarly if the component exists in the bad but not the good environment it may be concluded that its elimination from the bad area is likely to lead to visual improvements. Thus the factors which are the most important determinants of visual quality in the areas studied can be deduced.

Relationship of zoning decisions to visual quality

Only when visual quality has been analyzed and the history of zoning legislation and administration collected can the relationship between the two be studied.

If, for example, a number of special permits have been issued for a particular use in the area with bad visual quality, while none have been issued in the good area, components of visual quality which are a consequence of the issue of these special permits can be deduced.

Each zoning decision is considered separately, in terms of its occurrence in the good and bad areas examined and then deductions made about the aspects of visual quality to which it has contributed.

When the impacts of zoning on visual quality are understood then recommendations can be made to change the zoning accordingly.

Recommendations

The recommendations which result from this type of study only relate to methods which could be adopted to improve the visual quality of future development. Before such recommendations could be implemented

the consequences of the proposals on land value and function, and on the community in general would have to be analyzed. Only then could such recommendations be given appropriate priority in relation to other planning actions the town might be considering.

Chapter 3 :

Definition of Visual Qualities in the Context of Yarmouth

Yarmouth

Yarmouth, on Cape Cod, was chosen as a suitable case for this study for several reasons. First, the town has been significantly impacted by development and pressures for change over the last twenty-five years, and in addition has areas which are generally considered as having outstanding beauty while others are positive eyesores. The development has covered the spectrum from 'good' to 'bad'. Second, more pragmatic reasons for the choice were that land use had been well documented and channels were available to make appropriate contacts for information gathering in the community.

The Town of Yarmouth was incorporated in 1639, soon after the first inhabitants arrived and settled on the north coast. Before the turn of the seventeenth century the aggressive settlers had traded the native Indians out of much of their land and were squeezing them into a tract reserved for them on the Bass River, in what is now South Yarmouth. A settlement of wigwams remained in the area for many years though, by 1790 only a single tepee remained, the tribe decimated through the ravages of smallpox.

Yarmouth became a sea-faring center during the early nineteenth century and consequently many sea captains built fine homes there. These can still be seen strung out along Route 6A in Yarmouth and Yarmouthport.

The railway reached Yarmouth in 1871 and from this date its sea going trades declined.

Until well into this century Yarmouth was a quiet, sleepy backwater though in the years between the wars summer homes were steadily devel-

oping on the South Shore. However, South and West Yarmouth were quick to join the post World War II tourist boom. Yarmouth's south coast developed into the biggest tourist center of its type on the Cape. This development was concentrated on the south side of Yarmouth for both social and geographic reasons. At the time there were only two major trunk roads through Yarmouth, since the Mid-Cape Highway was not constructed until the mid 1950's. The northerly road, Route 6 (now Route 6A) was fairly well developed along much of its length, with historic buildings -- the sea captains' houses, community facilities, old churches and stores. Whereas Route 28 on the south side was relatively undeveloped. But more importantly, for the purposes of a resort community, the environmental conditions were much more suitable on the south shore. Warm currents come up the East coast of the U.S. and are diverted out into the ocean by the arm which is Cape Cod. Thus the water on Cape Cod's south shore warms up much more quickly in the spring and remains warmer all summer than the coastal waters either north of the Cape or on the Cape's northerly shore. In addition weather and ocean currents have combined over the centuries to form long stretches of sandy beach with dunes behind on the south, while the north shore is mostly salt marsh with only the occasional sand or gravel beach. A combination of all these factors led to Yarmouth as we see it today having a strongly contrasting character between north and south.

In addition to the resort development there is another element which has contributed to Yarmouth's rapid growth rate in recent years,

it has become the most popular retirement center on the Cape.

Some indication of the rapid growth rate which Yarmouth has undergone can be gathered from the MacConnell data¹³ on land use.

TABLE 1: CHANGE IN LAND USE IN YARMOUTH (GENERAL)

	1951	1971
Forest land	11,193	7,852
Agricultural	1,161	885
Wetlands	2,321	2,675
Mining, waste disposal*	-	87
Urban land	1,318	4,590
Outdoor recreation*	-	359

(*not measured as a separate category in 1951)

Urban land can be further divided.

TABLE 2: CHANGE IN URBAN LAND USE IN YARMOUTH

	1951	1971
Industrial	2	46
Commercial	23	260
Residential	1,225	3,878
Transportation	15	192
Public parks and open space	53	214

These figures give some indication of the radical change in character which Yarmouth has experienced in recent years. For instance, in twenty years the area of land occupied by residential uses has increased over three and a half times. Growth has continued at an accel-



LAND USE

<p>300 RESIDENTIAL</p> <ul style="list-style-type: none"> 310 single family 320 two family 330 apartment, duplex 340 apartment, single family 350 single family, no. 1 360 single family, no. 2 370 trailer or mobile home <p>400 COMMERCIAL</p> <ul style="list-style-type: none"> 410 retail, general 420 retail, food, grocery 430 office, professional service 440 commercial, medium <p>500 INDUSTRIAL</p> <ul style="list-style-type: none"> 510 manufacturing 520 non-manufacturing, bulk 530 warehouse 540 industrial <p>600 INSTITUTIONS</p> <ul style="list-style-type: none"> 610 governmental 620 university 630 non-commercial 640 school 650 other institution <p>700 AGRICULTURE</p> <ul style="list-style-type: none"> 710 cropland, long 720 pasture 730 orchard 740 other agriculture <p>800 OPEN SPACE</p> <ul style="list-style-type: none"> 810 public recreation 820 golf course 830 undeveloped 	<p>400 TRANSPORTATION & UTILITIES</p> <ul style="list-style-type: none"> 410 utility 420 parking for B 430 airport
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Scale: 1 inch = 1 mile
 Date: 1960
 Author: [illegible]
 Title: [illegible]

erated rate since 1971 to the present day.

Population statistics also indicate the rapid growth rate¹⁴.

TABLE 3: POPULATION STATISTICS FOR YARMOUTH

	Winter	Summer
1950	3,300	
1960	5,500	17,200
1965	8,720	
1970	12,030	34,400
1975	17,370	40,500
1995	23,000	64,000

Yarmouth's character



In the past Yarmouth has displayed its fair share of 'Cape Cod charm'. A 1930's guidebook refers to the small scale and pleasing character of a typical Cape Cod cottage in Yarmouth.

"The complete picture is something like this: a low story-and-a-half white cottage with green and blue blinds, a rambler rose trellis at the six or eight panel colonial front door, and tall hollyhocks swaying gently in the spaces between the windows. The plot in front of the cottage is surrounded by a low picket fence, with an equally low privet hedge just inside. Then some irregular slabs for a walk, a closely mown lawn, hardly bigger than a pocket handkerchief, a sun dial, small flower beds full of gay perennials. If the cottage faces the sea, as it should, you catch glimpses in the middle distance of green marshes, of white surf, of blue waters and blue skies and very likely, of a ship moving down the coast."¹⁵

Small details play an important role in this picture. The white picket fence,

"(s)omewhere between the toy fence that comes with a doll's house, and the conventional affair that encloses the front yards of grown

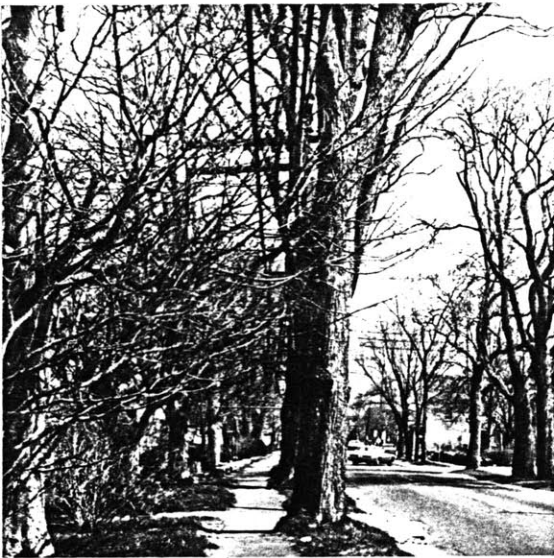
ups.... (embellishes)(m)any of the new summer cottages in Yarmouth and in her sister towns by the sea, the kind that are reproductions of the small old fashioned Cape Cod homes.... Nothing sets off the little white houses quite so well."¹⁶

Today, for the visitor, Yarmouth's character is dominated by two separate areas which are in complete contrast.

One, the historic center of Yarmouth, along Route 6A, still exhibits much of its traditional character. Though the splendor of the famous 'Cathedral of Elms' has been reduced by old age and Dutch Elm Disease, the captains' houses, remain lining the road as ever. These rambling, carefully detailed, freshly painted, timber frame houses preserve the peaceful image of a by-gone era.

The other area, Route 28, is the functional heart of Yarmouth's tourist trade. Its character is barely different from any commercial strip in this country today. Though the signs are small, frequently imitating colonial styling, and some attempts have been made to bring back the small picket fence, the resultant character is anonymous. Route 28 is designed to show the visitor where to stay or dine, or park a car conveniently, be entertained. But the Cape Cod charm which he or she came so far to see is missing, for this a detour has to be made to the Historic District on the north shore.

The residents' view of the town is different, they are more familiar with the residential areas which are off the major routes. Some of these have managed to retain their traditional character and many newer, tract developments have made efforts to imitate the quiet, peaceful, small scale character. But the residents too are constantly



aware of the contrast between the two major routes through the Town which, winter and summer, they use everyday.

Definition of visual qualities

There are two issues to be dealt with in designing a study of visual quality:

1. How can visual qualities be defined and reasonable methods of measurement be developed?
2. How is visual quality related to the concerns of citizens?

Visual qualities cannot be defined until some understanding of how citizens view their environment has been reached.

Relationship of visual qualities studied to citizens' concerns

Concerns which residents of small towns have in relation to the visual quality of their environment may well differ from those which I hold as an architecture student and a resident of a large city. Yet it is impossible, merely by asking people, to arrive at a set of visual qualities which are most important to them. For example, it has been found that "few citizens complain 'Oh, this city's structure is so illegible' but functional complaints about getting lost or being unable to locate a shop relate directly to illegible structures"¹⁷. In a similar way many people in Yarmouth make complaints about signs, when asked about what aspects of the visual environment disturb them most. Yet their perceptions of the signs which exist do not entirely correspond with reality. The sign controls in the Zoning By-Law stringently regulate the size and number of signs, few signs deviate substantially from them. Peoples' perception seems to be that the signs do

deviate from the regulations. Thus the set of visual qualities studied must be more firmly grounded in the results of other research in the area and not depend solely on people's initial ideas.

In this study the views of Yarmouth people are incorporated, not by asking them to choose which visual qualities to study, but by analyzing physical areas which are viewed as having 'good' and 'bad' visual environments. In this way people are not asked to analyze what contributes to the making of a visually 'good' or 'bad' environment.

There is agreement in Yarmouth that the commercial strip, which Route 28 has become, is ugly. Though the visual qualities are not the only things about which people complain (volume of traffic and safety are also major issues) there is agreement that it has visual problems. In addition Route 6A which runs through the Historic District is generally admired as being scenic and having admirable visual qualities.

Assumptions about why people view these areas as 'good' and 'bad'

People's image of a place is not based entirely on what they see, but is also affected by notions about the function and history of that place and how it conforms with their conceptions of the town as a whole. For example, a place which is associated with a pleasant occupation or a leisurely life-style is more likely to appear attractive than one associated with dirty industry or crass commercialism. This impression does not rely totally on the actual physical reality of the environment.

To Yarmouth people Route 28 represents the commercialism which goes with its tourist industry. Though this tourism and commercialism is essential to Yarmouth's economy, and no one would suggest its removal,

yet it does not fit the image local people have of themselves and their community. It is an essential aspect of their lives but not one of which they wish to be constantly reminded.

The visual qualities which have been studied are important because they contribute to this impression of commercialism and tourism. The numbers of signs and large scale commercial buildings, and the expanses of car parking which are seen from the road are constant reminders of this aspect of Yarmouth's *raison d'etre*.

Partly as a consequence of the absence of trees and green spaces along Route 28, the image of rural, quiet Cape Cod charm is missing. This is an image to which people cling while they rely more and more on the practical value of the tourist trade.

On the other hand Route 6A is regarded as a 'good' environment in part because it reveals to the world an image of Yarmouth which conforms to people's notions of their community. Historically this is the center of Yarmouth. The houses were originally owned and occupied by Yarmouth's oldest families, many still are today. The commercial activity, in this area, is local rather than tourist oriented. Banks and small scale commercial establishments serve the residents of adjacent neighborhoods. Route 6A has the all important quiet Cape Cod charm.

In addition, other factors contribute to the impression of a 'good' or 'bad' visual environment. Natural elements are important in the creation of pleasing environments. Trees are not only important because they provide shade or hide eyesores, or because they make views more interesting. They are important because Man has a need to relate

to Nature. Trees and other vegetation are constantly changing elements which provide living proof of the changing seasons. Recent evidence suggests that most people would prefer to live in suburban or rural situations¹⁸. Thus the presence of natural greenery fulfills a basic human need. We can assume that most people who live in Yarmouth are not among the minority who would choose the city over other life-styles and environments.

Areas chosen for detailed study
(see Land Use Map p.22)

Three areas were chosen for detailed study. The area of Route 6A in the Historic District between Mill Lane and Thatcher Street was chosen as the 'good' environment. This particular section was chosen because it contains most of the commercial structures located on Route 6A, these are local shops, the Register Office, Yarmouth Inn, several hotels and the Post Office. Thus the range of uses is as similar as is possible to the uses located along Route 28.

Two segments of Route 28 were chosen for comparison as 'bad' visual environments. The area between Forest Road and Rose Road, and the area from Parkers River to Springer Lane. The decision to study these particular areas in detail relates to the fact that they have the greatest concentrations of special permits and variances of any areas in Yarmouth.

This study will look at characteristics which have been found by others (psychologists and planners) to be important determinants of visual quality. The existence of these characteristics will be mapped for the areas of Route 28 and Route 6A and by making comparisons infer-

ences drawn about which components contribute most to the areas. For example, if one visual quality is found to be dominant on Route 6A and not at all on Route 28 it can be concluded that the existence of this indicator makes an important contribution to visual quality and as a corollary its absence detracts from visual quality.

The visual qualities which follow are of particular relevance only for these particular areas. Visual quality is specific to place, it cannot be assumed that a quality is universally good or bad.

Spatial delineation

The visual quality of a place is influenced by what can be seen from common viewpoints. In many of his writings Kevin Lynch¹⁹ has stressed the importance of 'enclosure' for the quality of spaces. This does not mean that all spaces have to be totally enclosed but rather that visual quality is enhanced when spaces are articulated by definable edges and structured views. Spaces that are legible are understandable. Only those things which can be seen from the road are likely to affect visual quality.

Spatial delineation will be measured in the following ways:

- A. Viewshed -- this is of necessity an impressionistic measure.
The 'edge' of what can be seen driving down the road will be mapped.
- B. View enclosing elements -- i.e. elements which contribute to the delineation of spaces.
 - i) trees
 - ii) buildings

iii) tall barriers -- walls, hedges, fences, etc.
over 4' 0".

Legibility of spatial components

Repeatedly, throughout the literature of visual and sensuous quality, Kevin Lynch and others stress the importance legibility plays in people's appreciation of the environment. This concept deals with the degree of definition of the elements of the environment such as roads, buildings, property boundaries, etc. This kind of detail is frequently provided by small scale detail.

The elements which will be mapped are:

A. Definition of edge of roadway:

- i) curbs
- ii) change in ground material
- iii) sidewalks
- iv) banks
- v) vertical dividers -- fences, hedges, etc.
- vi) curb cuts.

B. Definition of buildings -- area of planting around buildings.

C. Definition of property boundaries -- vertical dividers (hedges, fences, etc.)

Tidiness of detail

Many of the studies analyzed by the Southworths²⁰ have considered the importance of maintenance and cleanliness to visual quality. The concept which I have called tidiness of detail is intended to convey a broader meaning, though degree of or lack of maintenance are important

contributing factors. Tidiness of detail refers to the amount of caring which is evident in the environment, both in terms of how carefully it has been put together and how well the elements have been looked after. Thus location and design of elements is important to this quality as well as their condition.

Measures which will be used are:

A. Location of accessory elements:

- i) freestanding commercial signs
- ii) signs attached to buildings
- iii) road signs and other traffic controls
- iv) utility poles
- v) light poles.

B. Elements in need of repair.

C. Places where garbage collects.

Scale

Scale is an important element of visual quality. It is frequently cited as being important in architectural design²¹, and those who have been concerned with visual quality of the larger environment also view scale as important²². Scale is a measure of relative size of different components of the environment and their relationship to 'human scale'.

Scale will be measured in the following ways:

A. Building size:

- i) plan dimension
- ii) height

B. Distance between buildings:

-
- i) distance between adjacent buildings
 - ii) distance across the road
- C. Percentage area of asphalt surface within the viewshed.
- D. Lot size and shape.

Chapter 4:

Measurement of Visual Qualities

Introduction

The method of analysis employed to study visual quality is a comparative one. Each area of Route 28 is compared with Route 6A and the description of findings shows the similarities and differences between each of the components of the four previously defined visual qualities.



Route 6A

Viewshed: The edge of the view has a consistent and rhythmic shape which is the result of a regular pattern of view-enclosing elements, such as trees and buildings, which help to form it. The width of the view perceived by a driver varies between approximately 100 and 200 feet and only on a few occasions opens out.



Route 28 (W.Y.)

Viewshed: The width of the viewshed is fairly regular, but the pattern of view-enclosing elements is not as consistent. The general width of the view is between 100 and 200 feet but it opens out in several places, for instance, a broad expanse of salt marsh can be seen as one approaches Parkers River.



Route 28 (S.Y.)

Viewshed: The shape of the viewshed is irregular, on average it is 200 - 300 feet wide, in many places the view opens out into a broader vista, such as near the Yarmouth High School and Town Hall.

View-enclosing elements: Large numbers of mature trees, both along the edge of the road and on many property lines, help define the view. In several places tall hedges along the road margin limit the view beyond to that of tree tops and the upper stories of buildings. Buildings are less important than trees and hedges as view-enclosing elements.

Trees serve to define the viewshed between the buildings.

Because of the many trees lining the road, the view straight ahead is quite short, and the views to either side only open out as they are approached. Thus the visual experience for a driver is

View-enclosing elements: Here there are few trees. Those which do exist are located in or near the cemetery, long stretches of the road have none. No tall hedges line the road or property boundaries, though there are some fences. Thus buildings are the major view-enclosing elements on this stretch of road.

The edge of the viewshed is vague between buildings, it is determined by what the eye can assimilate in a passing glimpse. One is not aware of what occurs between buildings though if one were to stop and look the actual view would go beyond the viewshed line.

Here fewer trees allow the view ahead to be much longer, and the areas adjacent to the road, with their buildings, trees, car parking and green spaces, signs and utility poles, can be seen

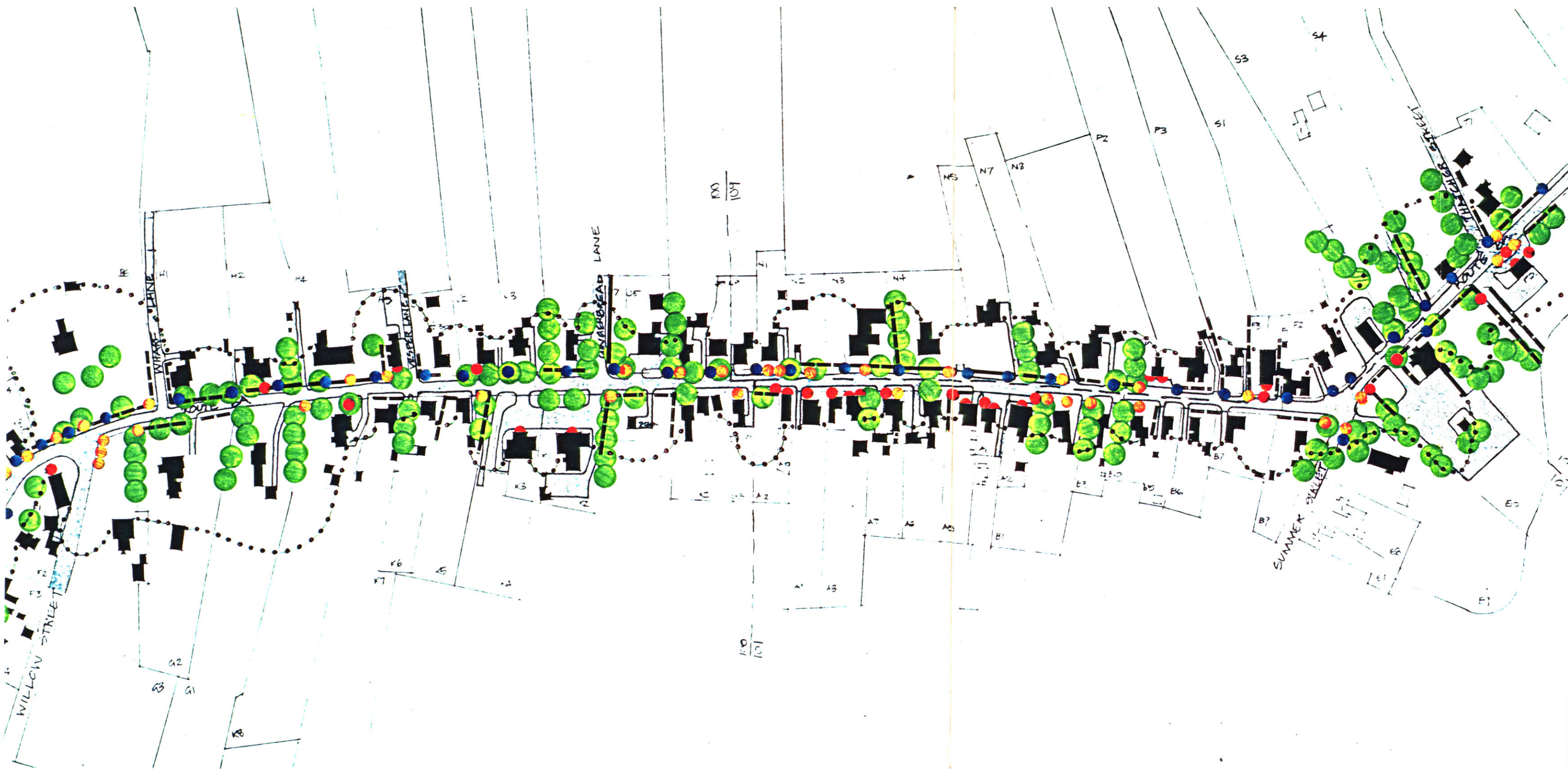
View-enclosing elements: There are trees in certain areas, but they are not generally located close to the road edge, and in the commercial areas there are no trees in the foreground. Buildings are the most dominant view-enclosing elements. There are few hedges or fences along property boundaries.

The edge of the view is undefined between buildings and the view frequently opens up into long distance vistas.

The road is wider here and the view down it is not limited because the trees are set back from the edge of the road. Elements can be seen in advance and the view changes more slowly as the road is

constantly changing. The changes from a distance. The rate of traversed.
are limited in nature as the view change is slower because elements
is always composed of similar ele- can be seen in advance.
ments.

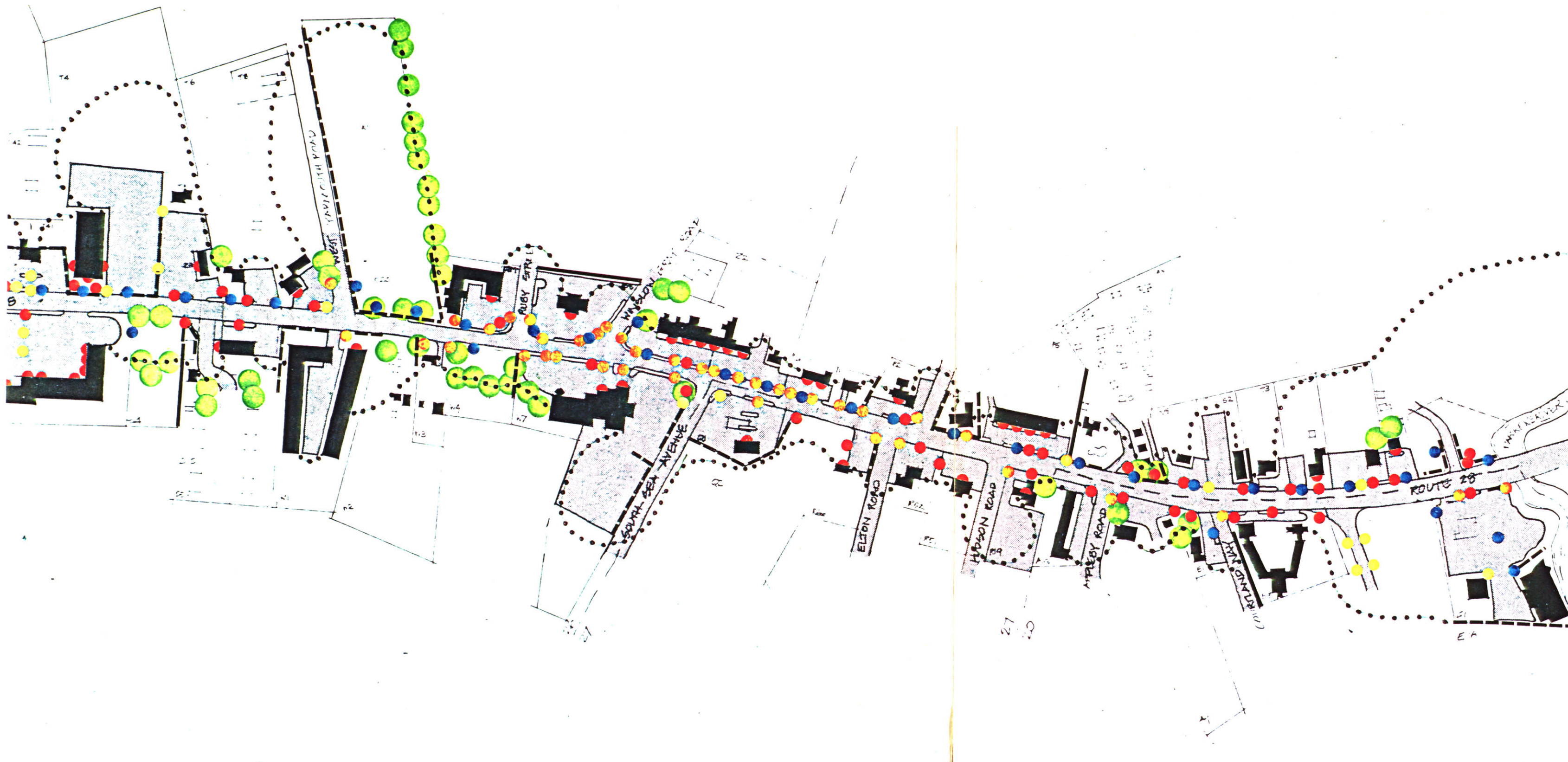
ROUTE 6A



KEY

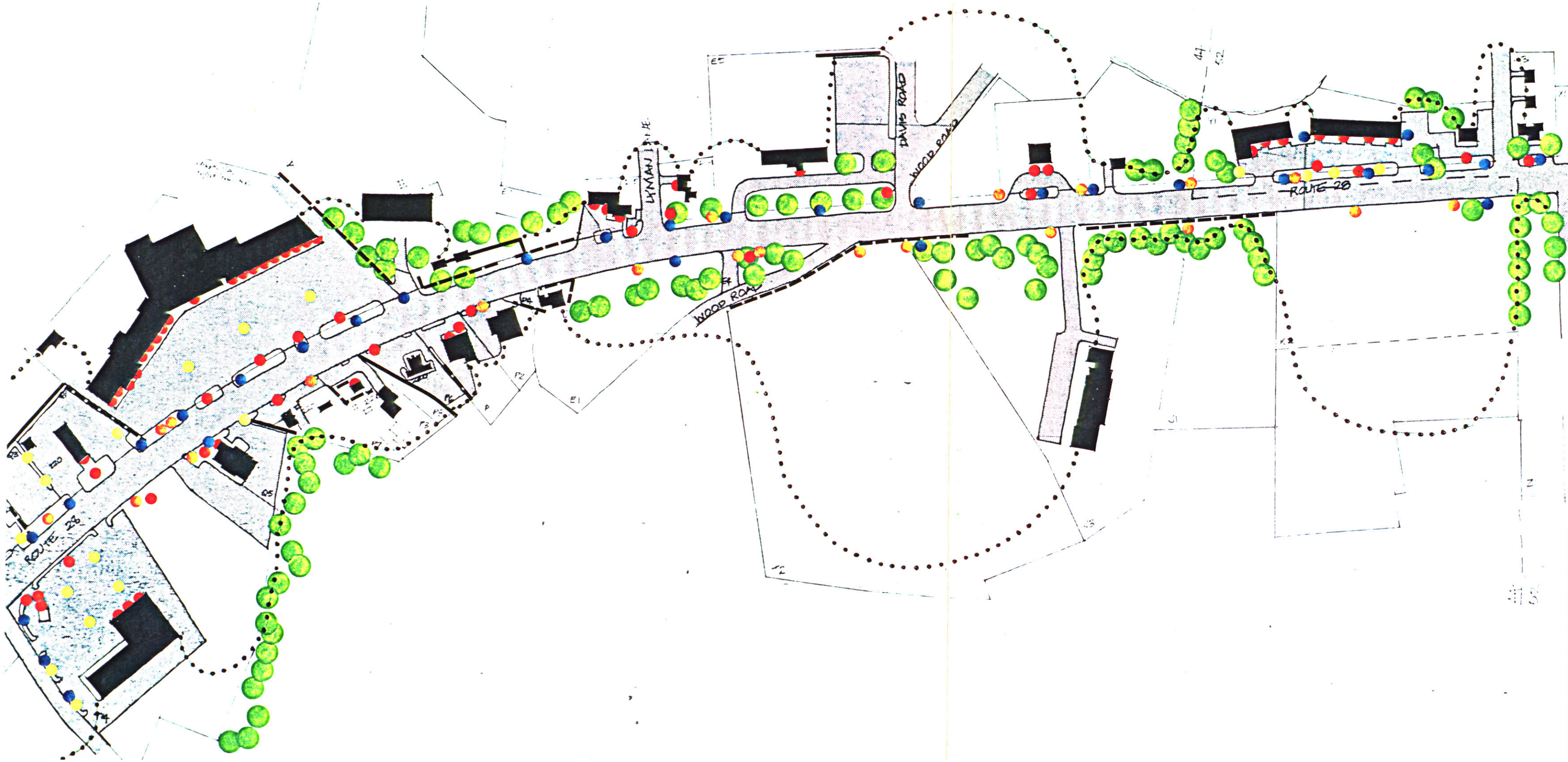
- EDGE OF VIEWSHED
- TREES
- HEDGES AND FENCES ETC. OVER 4'-0" HIGH.
- AREA OF ASPHALT
- VERTICAL BARRIERS
- COMMERCIAL SIGNS (FREESTANDING)
- COMMERCIAL SIGNS (ON BUILDINGS)
- ROAD SIGNS
- LIGHT POLES
- UTILITY POLES

ROUTE 28 (W. YARMOUTH)



KEY

- EDGE OF VIEWSHED
- TREES
- HEDGES AND FENCES ETC. OVER 4'-0" HIGH
- ▨ AREA OF ASPHALT
- - - VERTICAL BARRIER
- COMMERCIAL SIGNS (FREESTANDING)
- COMMERCIAL SIGNS (ON BUILDINGS)
- ROAD SIGNS
- LIGHT POLES
- UTILITY POLES.



*ROUTE 28
(S. YARMOUTH)*

KEY

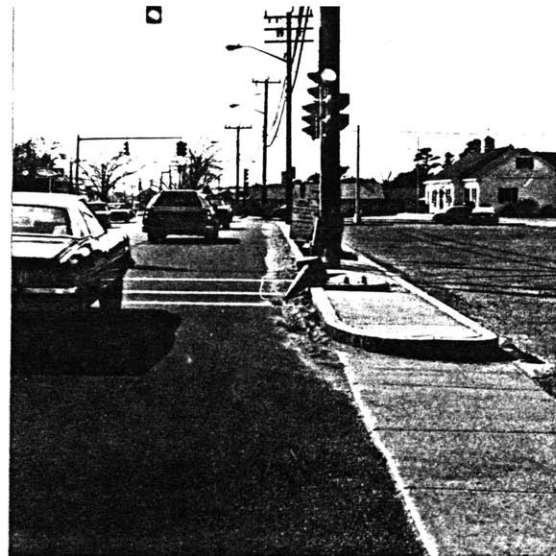
- *EDGE OF VIEWSHED*
- *TREES*
- *HEDGES AND FENCES
ETC. OVER 4'-0" HIGH*
- *AREA OF ASPHALT*
- - - *VERTICAL BARRIERS.*
- *COMMERCIAL SIGNS
(FREE STANDING)*
- *COMMERCIAL SIGNS
(ON BUILDINGS)*
- *ROAD SIGNS*
- *LIGHT POLES*
- *UTILITY POLES.*



Route 6A

Definition of edge of roadway:

The 24 foot wide road is bordered on either side by a narrow sidewalk, separated from the road by a grass strip. In places due to heavy use, this has become worn but still creates a break between pedestrian and vehicular territories. Occasionally the sidewalk is 1 or 2 feet above the level of the road, separated from it by a



Route 28 (W.Y.)

Definition of edge of roadway:

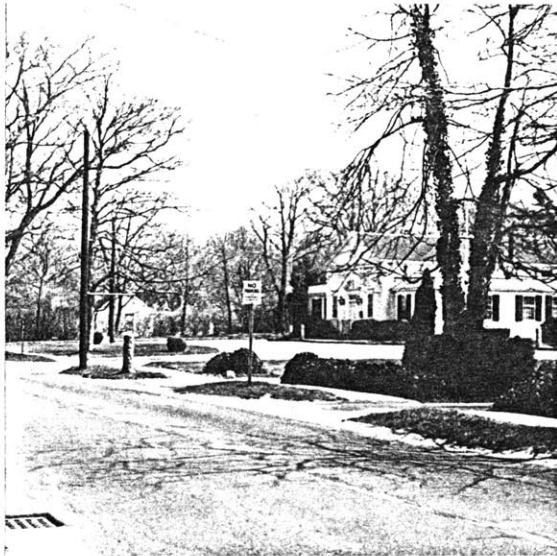
No continuous sidewalks are provided along this 24 foot wide road though there is a sidewalk on both sides of the road in the vicinity of the Winslow Grey Road intersection. It separates the road from the car parking areas and is edged with granite curbs. The road lacks definition because of the frequent curb cuts. In many in-



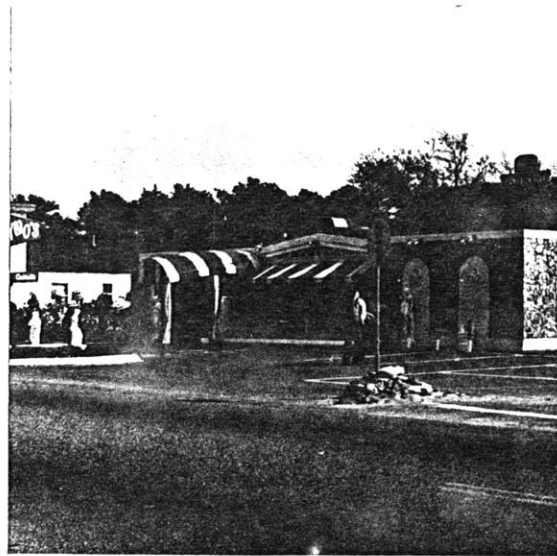
Route 28 (S.Y.)

Definition of edge of roadway:

One edge of this road is defined by a sidewalk, separated from the road by a narrow strip of sand or grass. The other side of the road is defined by a grass verge which has a low wooden fence or chain link fence set back from the roadway by about 15 feet. In the commercial section however, this edge is more broken. There



grass bank. Sidewalks are separated from front yards by walls, fences or hedges of various heights, interspersed with areas where lawns sweep down to the sidewalk or where there are grass banks. 8 foot wide driveways join the road at frequent regular intervals. Car parking areas are divided from the road by 20 foot wide grass strips or by buildings and have well defined egress and



stances along the whole frontage of a property car parking areas are undistinguished from the roadway. Sometimes islands of grass have been constructed between the road and parking areas, but they are much narrower (generally less than 8 feet wide) than those on Route 6A.



are numerous wide curb cuts which result in the road and car parking areas becoming hard to distinguish. Several car parking areas, however, are defined by grass strips, edged with asphalt curbs, which are 10 to 20 feet wide. In one case parking is set 4 feet below the level of the road and definition is provided by a grass bank.



access points with curb cuts of not more than 10 - 20 feet. In only two small areas is the boundary adjacent to the road undefined in any way. This occurs where a few car parking spaces have been squeezed into small areas in front of stores.



Definition of buildings: The majority of buildings have a landscaped setting. Mown lawns are separated from structures by shrubbery. Some of the stores have planted areas between them and the sidewalk. In places where car parking areas surround buildings the structures are still separated from the asphalt by grass and shrubbery.



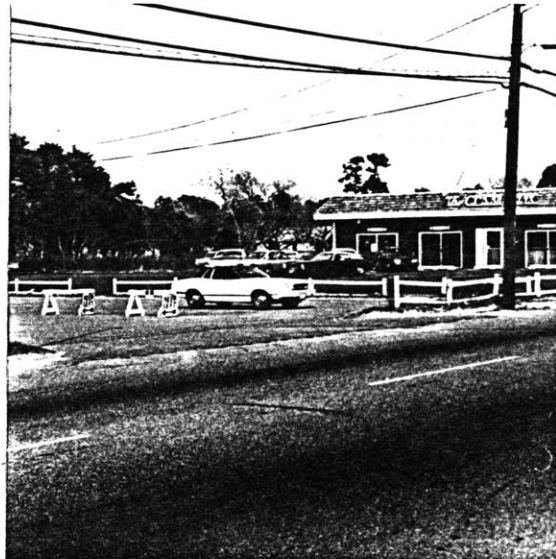
Definition of buildings: Older buildings on Route 28 have landscaped strips around them. But in the majority of cases front and side yards have been paved to provide car parking space. There is generally no landscaping but some buildings have narrow, 3 - 5 foot wide, planted borders around them.



Definition of buildings: Some buildings have landscaped settings, but in the commercial areas stores are frequently surrounded by car parking areas which abut the buildings with no change in material. In one new shopping center a slightly raised walkway is separated from the car park by borders of shrubbery which effectively define pedestrian and vehicular territories.



Definition of property boundaries:
Virtually every property is defined either by a hedge, row of trees, fence or wall.



Definition of property boundaries:
Definition is inconsistent. Some boundaries are defined by fences and walls while others remain undefined. In several instances large car parking areas cross property boundaries with no indication of a change of ownership.



Definition of property boundaries:
Though many property boundaries are defined with chain link or timber fences, others are not defined at all. Car parking areas are sometimes shared by two adjacent properties and in these cases property lines are not distinguished.



Route 6A

Location of accessory elements:

There is a total of 112 accessory elements on this stretch of road.

Most of the 17 freestanding commercial signs and the 14 signs attached to buildings occur close to the group of commercial buildings. Freestanding signs are located in a narrow zone close to the edge of the roadway. All the signs display a quiet traditional



Route 28 (W.Y.)

Location of accessory elements:

There are 183 accessory elements on this section of Route 28.

The 39 freestanding commercial signs and 43 signs attached to buildings are strung out along the length of the road. Though many freestanding signs are located along the road margin, others are spread out across the viewshed between the buildings and the road.



Route 28 (S.Y.)

Location of accessory elements:

There are 147 accessory elements on this section of Route 28.

The 26 freestanding signs and 41 signs attached to buildings are all located in the two commercial areas. They are spread out in a wide band between the buildings and the road. Each store has an individual sign above it in the two shopping centers.



design.

There are 39 road signs, mostly for regulating parking, dispersed along the road.

Utility poles are spaced along the road at equal intervals.

Street lights are attached to utility poles and there are no additional light poles of any sort.

Signs are generally within the size limits set in the By-Law but are larger and more colorful than those on Route 6A.

The 51 road signs are mainly grouped around the intersection of Route 28 and Winslow Grey Road.

Utility poles are spaced along the road at regular intervals.

Street lights are attached to these but separate light poles have been erected in some parking areas.

There are only 21 road signs dispersed along the road.

Utility poles are spaced along the road at regular intervals.

Street lights are attached to these, separate lights in parking areas tend to be very tall in relation to the height of buildings.



Elements in need of repair: There are no major maintenance problems in fact the buildings look well cared for. The grass strip at the edge of the road is worn from heavy use. Occasionally the road surface has been damaged by frost. Places where garbage collects: No areas were found where garbage collects, the environment was almost entirely litter free.



Elements in need of repair: No major problems were evident, the buildings are not in need of major maintenance, but landscaping could do with more up-keep. Grass strips are worn and the edge of the road is pot-holed from frost damage. Places where garbage collects: No areas were found where garbage collects, during the off-season months at least the environment is almost entirely litter free.



Elements in need of repair: There are no problems with buildings, and the road is in the same condition as Route 6A. But many curbs are asphalt rather than granite, these have deteriorated badly due to frost action. Places where garbage collects: No areas were found where garbage collects, during the off-season months at least the environment is almost entirely litter free.



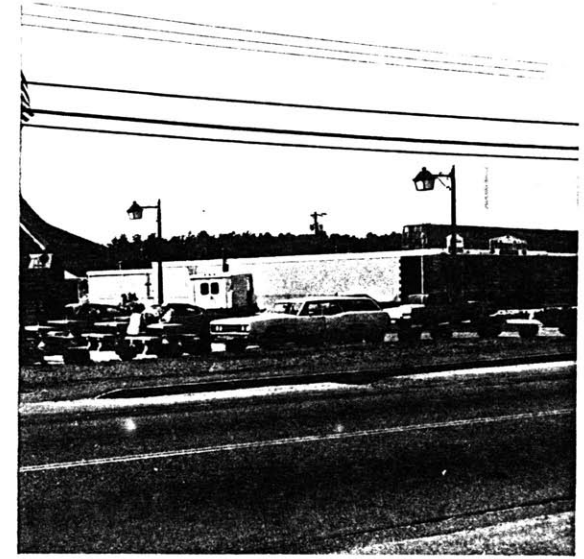
Route 6A

Building size: The buildings are all of a similar domestic size. There are a number of houses and many of the stores occupy buildings which were originally dwelling units. Even those buildings such as the Post Office and the two banks, which were not designed for domestic use have similar plan dimensions. All are either 1 or 2 stories.



Route 28 (W.Y.)

Building size: Some of the structures are or have been single family homes. Others erected as restaurants, stores or motels have plan areas 4 - 5 times those of dwelling units. There is more diversity in the size of buildings. No buildings exceed 2 stories.



Route 28 (S.Y.)

Building size: There is a marked difference in scale between the buildings. They vary from domestic buildings to commercial structures which are up to 20 times as large as an average single family house on plan. The buildings are all 1 or 2 stories.

Distance between buildings: Spacing of buildings is regular. In the densest area where most of the stores are located the distance between the buildings is half their width. Spaces become progressively larger away from this commercial area.

The distance between facing buildings, across the street, is quite regular. Buildings are generally set back roughly 30 feet which is the required setback in the By-Law.

Distance between buildings: On average there is much more space between buildings. Some structures are quite close with a space roughly equal to the size of a single family house between them. In other areas there are large empty lots, and structures are widely spaced. There is no general pattern.

Older buildings are only 30 feet from the road. Where parking areas occur in front of shopping centers, etc. the buildings are set back as much as 100 feet, thus the distance between opposite buildings varies between 100 and 200 feet.

Distance between buildings: Distances between adjacent buildings vary greatly. Sometimes there are large parking lots, vacant sites or landscaped areas between buildings. In other places buildings are quite close.

It is frequently impossible to measure distances between opposite buildings, because many structures on this stretch of road are not sited parallel to it, and because the wide spacing between buildings results in many buildings facing open spaces. Where approximate measures can be made the distance is as much as 300 feet.



Percentage area of asphalt: Only 25% of the ground surface, including the roadway itself, is asphalt.

Lot size and shape: Lots have narrow frontages though they cover large areas.



Percentage area of asphalt: 60% of the ground is asphalt covered. Most of this is large unbroken expanses of car parking serving the commercial establishments.

Lot size and shape: Lot areas are not significantly different in many cases from those on Route 6A but they are shallower and therefore have longer frontages.



Percentage area of asphalt: An average figure is useless here. In the vicinity of the commercial areas 60 - 75% of the ground material is asphalt, but elsewhere the proportion is not more than 25%, the same as on Route 6A.

Lot size and shape: Many lots are very large and the result of smaller lots having been aggregated in the past.

Conclusions

By making comparisons between these three areas some conclusions can be drawn about visual characteristics which contribute to good and bad visual quality.

On Route 6A, the road is lined with mature trees, which not only help define the view, but also reduce vision straight ahead. By limiting the view down the road the number of accessory elements, commercial and public signs, which can be seen at one time is reduced.

In contrast, on Route 28 not only are there more signs but more are visible at once because they are not screened from the long distance view. Since the signs are small, though they can be seen well in advance, their message cannot be read until they are approached. Thus no purpose is served by seeing them in the distance.

Where there are trees close to the road margin these camouflage the utility poles and their cables, even in winter, so that they do not dominate the edge of the road.

The definition of the edge of the road is very important. Such definition can be provided by trees, hedges, fences, walls, grass strips sidewalks, changes in level, as on Route 6A, but where there is no edge detail, adjacent parking areas become indistinguishable from the road. This happens frequently on Route 28.

Green space or landscaped strips around buildings help break up the scale, and give the impression that buildings have been designed in their setting, rather than just haphazardly located. Many buildings on Route 28 are surrounded by unbroken areas of car parking.

Property lines which are perpendicular to the road and which are

marked by rows of trees, hedges or fences, such as those which occur frequently on Route 6A, break up scale and provide extra screening of the view down the road.

Though there are many commercial signs both freestanding and attached to buildings along Route 28, there are also large numbers of traffic signs erected by public agencies. Commercial signs are not the only ones which clutter the environment though they are the only ones which can be controlled by zoning.

The scale of buildings and especially parking areas is a problem on Route 28. On Route 6A parking areas which are visible from the road are smaller in area and partially screened from the view. Additional parking is sometimes provided behind buildings outside the viewshed.

Though lighting is often essential for car parking, light poles in some parking lots on Route 28 are obviously designed for maximum efficiency rather than appearance. Their excessive height means that they are out of scale with the surrounding buildings. They dominate some parking areas.

Thus the following components seem to be particularly important in contributing to the difference in visual character between Route 6A and Route 28:

Trees,

Definition of the edge of the road, buildings and property lines,

Signs,

Size of parking lots within the viewshed.

Chapter 5:

Zoning Decisions – Legislative Changes

Introduction

Yarmouth passed its first Zoning By-Law in 1946. Thus virtually all the resort development, because it is primarily a post-war phenomenon, has been controlled by zoning.

This case study looks at all the zoning decisions, legislative changes and administrative actions, which have taken place in Yarmouth since 1962.

During the last fourteen years, Yarmouth has had an unusually active Planning Board, which has constantly worked on changing, adding to and improving the Zoning By-Law, in order to ensure that development contributes to the Town's amenity. Though agreement has not been reached on some of the more controversial measures that have been suggested, and thus amendments have been defeated at Town Meetings, the By-Law has been constantly altered. The By-Law reflects the kinds of concerns that many Yarmouth residents have about what development should or should not take place in the Town.

Whether the By-Law is totally successful in protecting the environment and directing development in the ways that were contemplated is uncertain, but there is no question that the By-Law has had a significant influence on the visual character of Yarmouth.

1962 By-Law

In 1962 the By-Law was a much simpler and shorter document than it is today. There were only three types of district: residence; business; and industrial.

Use in residence districts was the most restricted, one or two family dwellings, and institutional uses such as churches and schools

were allowed. No provisions were made for multi-family units.

Hotels, motels and professional uses carried out in conjunction with a primary residential use were allowed on approval of the Board of Appeals. Commercial uses, such as retail stores, were only allowed in those residential districts abutting Route 28. This is very significant as it indicates that before Route 28 was rezoned as a Highway Commercial District it was viewed as an area where commercial uses could develop.

Any use permitted in a residence district was also permitted in a business district in addition to retail stores, hotels and motels, offices, etc. and amusement uses on approval of the Board of Appeals.

The industrial districts were least regulated. All uses allowed in other districts were allowed plus non-noxious manufacturing and warehousing uses.

Minimum lot sizes and setbacks were defined for all districts, thus controlling the density of development.

By-Law changes

The changes which have been made to the By-Law since 1962 have been numerous and substantive. There have been nine major additions of new sections during the study period, relating to:

Motels

Highway Commercial District and Uses

Industrial District and Uses

Wetlands Conservancy District

Apartments

Open Space Village Development
Site Plan Review
Parking and Loading Requirements
Definitions.

In addition changes have been made to existing sections in relation to:

Maximum site coverage
Lot size and frontage regulations
Businesses allowed in homes.

The general trend has been towards more regulation. In no cases have the changes, made to the By-Law, resulted in less regulation or less stringent standards.

Motels

The 1965 addition to the By-Law relating to motels did not make any changes in the designation of areas in which motels could be built, but added new site planning provisions for all motel developments, regardless of the type of zone in which the motel was to be erected. These included: lot area requirements which related to the number of units to be provided; car parking requirements (which were moved to the special section on car parking requirements in 1975); a maximum lot coverage of 35%; and a maximum building height of two stories.

This section appears to reflect a concern that in cases where motels had been developed in residential areas, under special permit, the regulations were not adequate to protect the quality of the environment when applied to such non-residential uses.

Highway Commercial District and
Uses

The Highway Commercial District, which was added to the Zoning Map in 1971, was accompanied by a new section in the By-Law, relating to allowed uses, dimensional regulations, building placement requirements, car parking, etc.

The types of uses allowed in this district were virtually the same as those allowed in Business Districts. However, the By-Law recognized that the strip commercial development along Route 28 had a different scale and character from that of other business area. Lots were required to have larger areas and longer street frontages.

Car parking standards were included in this section. The requirements that large numbers of parking spaces be provided within 200 feet of any facility precluded most types of development other than the strip type which is the major style of development along Route 28. When this section was added the problem that the edge of the road was undifferentiated from car parking areas on adjacent land was recognized. In the Highway Commercial District a ten foot wide landscaped strip was required along the road boundary to provide some definition.

Industrial District and Uses

As more land was zoned for industrial development in the Town, the original section of the By-Law dealing with industrial uses became inadequate. A more detailed set of regulations was included in the By-Law in 1971. This new section reflected a totally different concept of zoning. Whereas in the earlier section any use permitted in a residential or business district was permitted in addition to "any manufacturing, processing or assembling use", the 1971 amendment prohibited resi-

dential uses, hotels and motels, apartment complexes, one or two family dwellings, and only allowed retail stores on approval of the Board of Appeals. Thus the intention was to create a zone exclusively for manufacturing, warehousing and related uses rather than one which was merely least regulated and in which, therefore, any use including housing and industrial uses could locate.

Wetlands Conservancy District

The addition, in 1973, of a Wetlands Conservancy District to Yarmouth's Zoning Map together with a new section in the By-Law stringently restricting development in such areas, reflects an increasing concern that this community, like many others, has about the effects that rapid growth and development are having on the quality of their natural environment and water supply. Water supply is a major problem on Cape Cod where the percolation characteristics of the soil are such that the ground water is particularly susceptible to contamination.

The stated purpose of the Wetlands Conservancy District was to:

"....preserve, protect and maintain the ground water supply on which the inhabitants depend for water; to protect the purity of coastal and inland waters for the propagation of fish and shellfish and for recreation purposes; to provide for the continued functioning of the wetland as a natural system; to protect the public health and safety; to protect persons and property from the hazards of flood and tidal waters which may result from unsuitable development in swamps, ponds, bogs, or marshes along water courses or in areas subject to floods and extreme high tides; to preserve the amenities of the Town and to conserve natural conditions, wildlife and open space for the education and general welfare of the public."

Within the Wetlands Conservancy District stringent controls have been placed on the kinds of development which are allowed. Uses such as certain recreational activities (i.e. hiking, swimming, boating, nature study, fishing, trapping and hunting), and drainage works, so long as they are carried out by an authorized public agency for the purposes of flood or mosquito control, are the only allowed uses. The Board of Appeals is authorized to grant special permits for structures which are accessory to fishing, crop growing and harvesting, the erection of dams , or changes in water courses by authorized public agencies, clearance of private beaches and fabrication of private walks, trails, docks and landings.

Before issuing any special permit the Board of Appeals is required to make three findings:

1. That the use does not produce unsuitable development in marshes, bogs, ponds, or along water courses or in areas subject to flooding,
2. That adequate protection and provision of water supply is facilitated,
3. That inland marshes, bogs, ponds and water courses and their adjoining wetlands are protected and preserved in order to safeguard the purity of inland and coastal waters for the propagation and protection of aquatic life and for recreational purposes.

The inclusion, in the text of the By-Law, of specific findings which the Board of Appeals is required to make before issuing a permit

has become increasingly common during the past thirteenth years. As the Town and Planning Board have become more experienced and sophisticated they have become able to direct the actions of the Board of Appeals and thus the course of development more firmly.

Apartments

Until the section on apartments was added to the By-Law in 1970 there was no provision for multi-family housing to be built anywhere in Yarmouth. It has been suggested that one reason for changing the By-Law to allow apartments was that people of the Town were concerned that housing was becoming too expensive for younger residents, buying their first homes.

The new section only allows the construction of apartments in residential or business districts outside the Yarmouth Historic District, if the Board of Appeals is willing to grant a special permit. The Board of Appeals must make a series of findings relating to: minimal disruption of the function of an established neighborhood, apartment complexes can, therefore, only be erected in relatively undeveloped areas; avoidance of over-crowding, a minimum distance of 1,000 feet is required between the proposed complex and any other apartment complex or motel; safety of access; adequacy of utility services; and avoidance of ecological disruption. The Board of Appeals is also required to issue a permit only after ensuring the

"preservation of neighborhood amenity, through glare free illuminated parking areas, site design to minimize visibility of parking areas and preservation of existing water views from public ways and effective use made of topography, landscaping, and building place-

ment to maintain to the degree feasible, the character of the neighborhood."

Thus, in effect, the introduction of this section authorized the Board of Appeals to carry out site plan review. They can deny special permits for development proposals which they feel are detrimental to the character of the neighborhood in which they are located.

Open Space Village Development

In 1973 the Apartment section of the By-Law was deleted and substituted by a section called Open Space Village Development.

This change reflects the concerns of the Planning Board and the Townspeople about the quality of multi-family housing and incorporates more up-to-date ideas about how such multi-family housing can be provided in a community with minimum disruption of local character.

The concept behind the Open Space Village Development provision is the same as that of the more familiar Planned Unit Development. Incentives are given to the developer, in terms of allowing additional units provided that:

"all land not designated for roads, dwellings or other development within the Open Space Village Development shall be held for common use of the residents of the development. Common open space shall be preserved for recreation or conservation, and shall comprise not less than 30% of the 'Applicable Land Area' within the development plan".

This open space is intended to become a permanent amenity, it cannot be developed, or encroached on by development, at a later date. To guarantee this the Town is granted an easement over it to ensure "its perpetual maintenance as conservation or recreation land".

The special findings which have to be made by the Board of Appeals before granting a special permit are based on those in the former Apartment section, but are more detailed. The Board of Appeals has more discretion. For instance, in the Open Space Village Development section as most recently amended, they may reduce the requirement that structures must be located not less than 250 feet from any "pond over five acres, river, stream, ocean, swamp, or marsh", to 100 feet,

"upon demonstration by the applicant that the site plan could thereby be enhanced, and also that the topography, vegetation, and soil characteristics of the site, and the proposed drainage patterns are such that siltation, erosion, surface water contamination, or other environmental degradation will not substantially increase due to a reduced setback from water bodies".

Site Plan Review

A new provision was added to the By-Law in 1974. Certain uses:

Open space village developments,

Mobile home parks,

Motels and guest houses,

All other non-residential uses requiring ten or more parking spaces, would undergo a Site Plan Review by the Town Engineering Department.

The purpose as stated in the By-Law, was to ensure:

1. Internal circulation and egress are such that traffic safety is protected and access via minor streets servicing single family homes is minimized.
2. Reasonable use is made of building location, grading and vegetation to reduce visibility of parking areas from public ways.

-
3. Adequate access to each structure for fire and service equipment is provided.
 4. Utilities and drainage serving the site provide functional service to each structure and paved area in the same manner as required for lots within a subdivision, and fire protection provisions meeting Fire Department Regulations are provided.
 5. Lighting for parking areas avoids glare on adjoining properties.
 6. Major topographic changes or removal of existing trees are avoided.
 7. In or abutting residential districts, effective use is made of topography, landscaping, and building placement to maintain, to the degree feasible, the character of the neighborhood.
 8. All other requirements of the Zoning By-Law are satisfied.

Since 1974, all developments, other than single or two family homes or small scale commercial and industrial uses have had to comply with this regulation.

Plans which are subject to Site Plan Review are required to be prepared by a registered Architect or Engineer. Thus large scale developments are precluded from being designed by untrained or non-professional designers. The Town recognizes that competent design is more likely to result if experts are involved in the decision making process.

Parking and Loading Requirements

Until 1975, car parking requirements were dispersed throughout the By-Law. Standards were inconsistent, for example, while stringent standards were laid down for the Highway Commercial Zone none were pro-

vided for business districts. In 1975 the existing requirements were brought together in a separate section. At the same time requirements were added for all districts where they had not previously been specified. For the first time, off-street loading requirements were included in the By-Law. Standards for design were also incorporated. Car parking areas now have to be set back from side and rear lot lines 10 feet and 20 feet from the street. Parking lots for 5 or more vehicles must be screened from residential uses by a 4 or 5 foot high, densely planted strip, and parking lots for 20 or more cars must contain at least one 2" caliper tree per 8 vehicles. The inclusion of these standards in the By-Law reflects a concern that car parking areas which are not carefully managed can become eyesores.

Definitions

A series of definitions of some of the ambiguous terms used throughout the By-Law was added in 1975, in order to avoid some of the unintentional (and intentional) misreadings of the law.

Changes to existing sections

In 1971 lot area and frontage regulations, for residential districts, were increased by 20 - 25% over the original minimum requirements. The purpose of such increases was to ensure that future development would be at a lower density than that of the past.

Regulations for maximum allowable lot coverage were added in 1974 for residential and business districts. Districts had not been so regulated in the past but certain uses had lot coverage requirements, for example, motels. From observation it seems that buildings erected prior to this amendment do not exceed the new maximum lot coverage

prior to this amendment do not exceed the new maximum lot coverage specifications.

Zoning Map

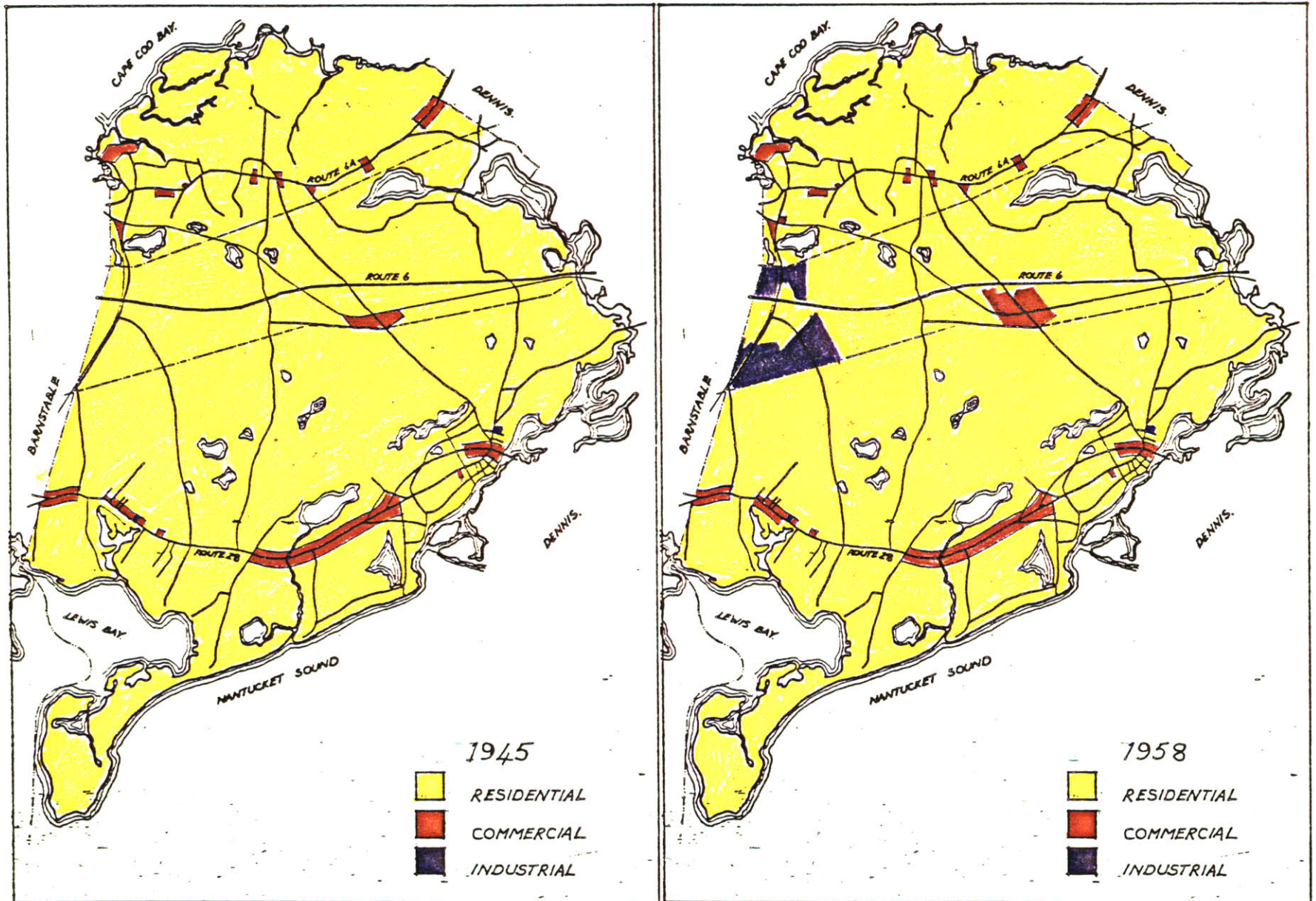
In the original Zoning Map, passed by Town Meeting in 1946, the whole of Yarmouth was zoned for residential use, except for small areas along several major routes zoned for business and industrial uses. These areas were of two types: single parcels or 'spot' zones; and more conventional zones.

The single parcels, zoned for business or industrial use, were so zoned because they were occupied by those uses at the time.

The only areas in the whole Town zoned for industrial use were two single parcels, one on North Main Street near the center of South Yarmouth and one on Route 28 in West Yarmouth.

Business zones fall into both categories. On Route 6A several individual parcels, already occupied by commercial buildings, were zoned for business use, but so were two larger areas. One of these in Yarmouthport was already occupied by buildings, the majority of which were used for commercial purposes. The other, on the Yarmouth/Dennis border is not used for commercial purposes today and would appear never to have been occupied by such buildings.

Virtually all of the remaining land zoned for business purposes was located along Route 28 and on Main Street on the southern side of Yarmouth. Much of this was zoned as individual parcels already occupied by business uses. There were three more conventional business zones which were not totally developed at the time of enactment. Therefore,



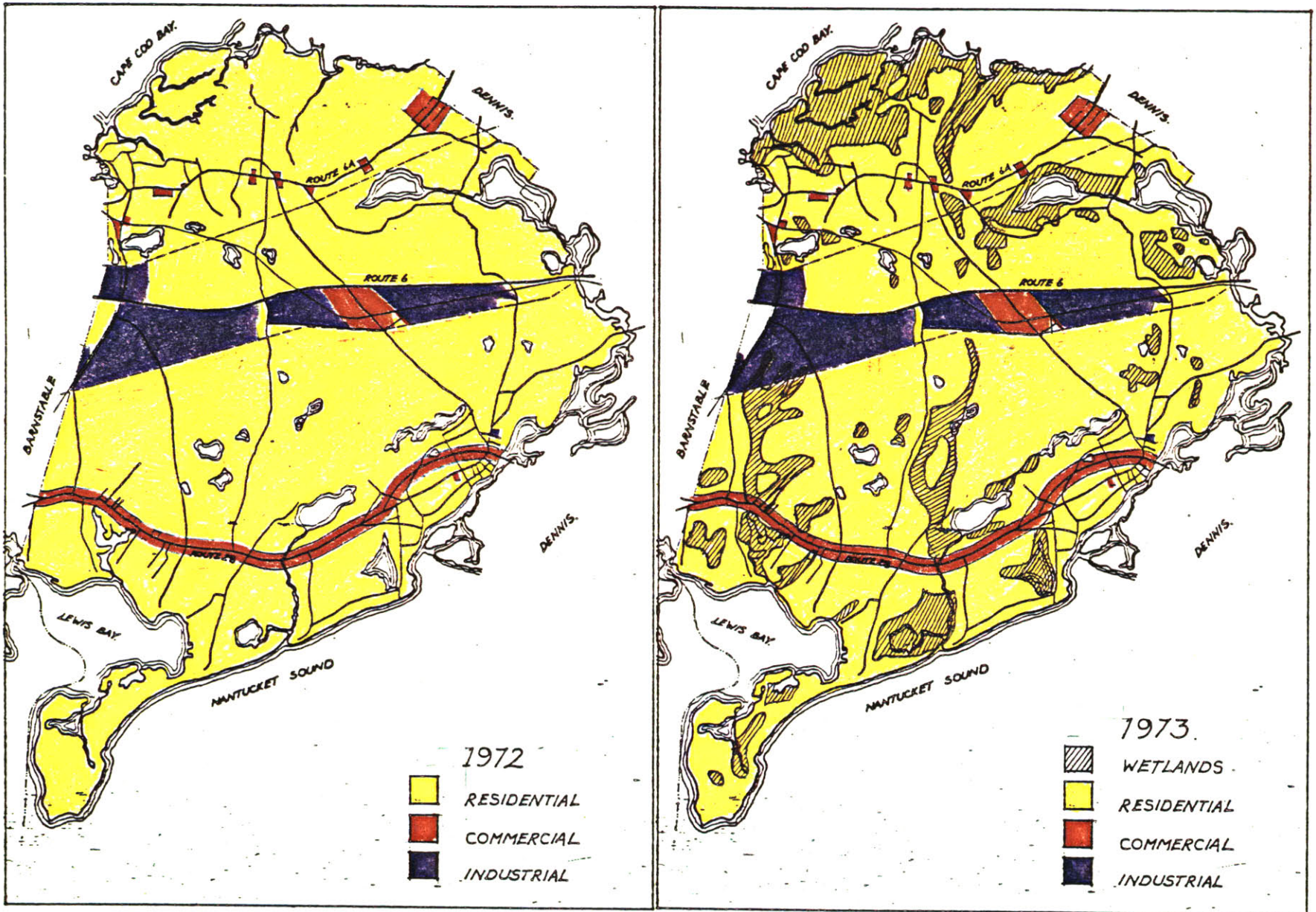
unlike the case of industrial land, there was land available for development of commercial uses in Yarmouth after the Zoning By-Law was introduced.

By 1962, the first year considered in this study, the Map had been amended twice. Once, in 1958, to add land zoned for industrial uses, which was located near the Barnstable Town Line, adjacent to the recently completed Mid-Cape Highway, and again in 1960, when the residential areas were subdivided to allow different density development in different parts of the Town.

The addition of industrially zoned land was a result of pressure for development. Though Yarmouth's economy was not based on industrial uses, nor was the Town actively encouraging industry to locate within its boundaries, there was a need for industrial land especially for warehousing purposes. It is clear in this case that the change in the map was directly related to pressures for development²³.

There were three changes in the map during the study period. In 1971 all the land between the Mid-Cape Highway and the high tension power transmission line, which had originally been zoned residential, was rezoned as industrial.

In the same year all the land to a depth of 1,200 feet on either side of Route 28 was zoned as Highway Commercial. Commercial development was taking place along the length of Route 28, both in and out of business areas, before the introduction of the Highway Commercial Zone. However, the lot size, car parking, setback and other requirements are different for the Highway Commercial Zone from those for regular busi-



ness zones.

The final change was the addition of the Wetland Conservancy District which was not drawn on the Zoning Map but on a separate overlay. All development which occurs in a wetlands area is required to conform to the requirements of the Wetlands District as laid out in the By-Law, in addition to the use requirements depending on which use district is involved.

There have been no changes in the Zoning Map on Route 6A.

Chapter 6:

Zoning Decisions – Administrative Actions

 Overview

Throughout the study period the Board of Appeals has been very active reviewing applications for variances, special permits and extensions to non-conforming uses.

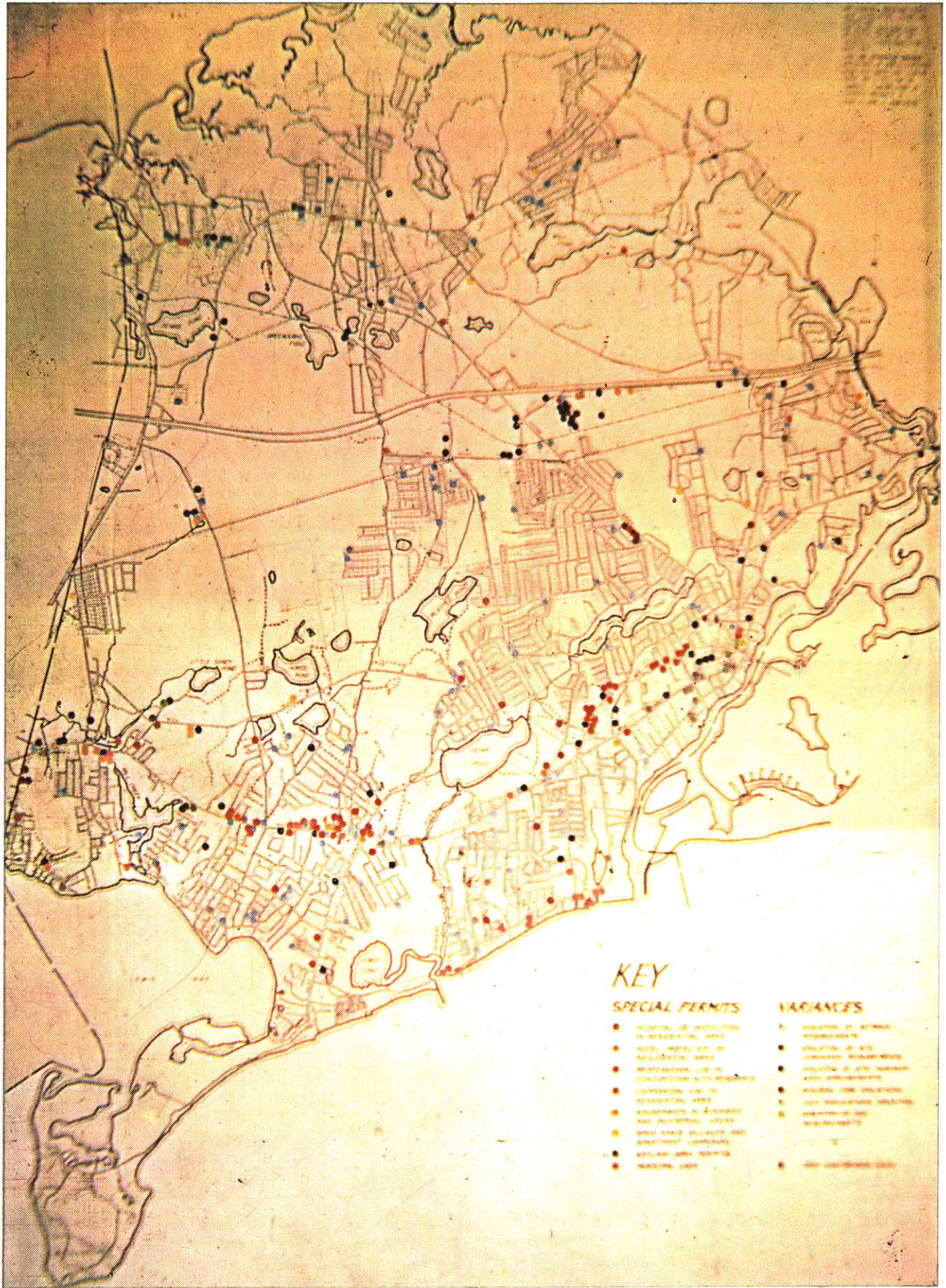
Between 1962 and 1975 a total of 680 applications were made of which the Board granted 414, or 61%. Of the remaining 116 approximately one half were withdrawn without prejudice before any finding had been made and the remaining half were denied. Many applications which were withdrawn were resubmitted with additional information as a new submission at a later date.

TABLE 4: APPLICATIONS TO THE BOARD OF APPEALS

	Total	Granted
1964 + 1965*	111	65
1966	60	26
1967 + 1968*	84	53
1969	53	29
1970	48	30
1971	55	37
1972	75	59
1973	79	60
1974	57	34
1975	42	21

(* Not recorded separately)

This Chapter describes the administrative actions of the Board of Appeals, and assesses their possible impact on the general visual character of Yarmouth, so that those actions which have had negligible impact can be eliminated from the study.



KEY

SPECIAL PERMITS

- HOSPITAL OR INSTITUTION IN RECREATIONAL AREA
- HOTEL, MOTEL, ETC. IN RECREATIONAL AREA
- RECREATIONAL USE IN CONCRETE AND RESIDENCE
- CONSTRUCTION LOT IN RESIDENTIAL AREA
- EQUIPMENTS IN RESIDENTIAL AND INDUSTRIAL AREA
- GREAT SPACE DEVELOPERS AND APARTMENT COMPANIES
- WETLAND AREA PERMITS
- MARSHING PERMITS

VARIANCES

- VARIANCE OF STRAIGHT SEWERAGE
- VARIANCE OF 600' DIVISION REQUIREMENT
- VARIANCE OF 60' MINIMUM SIDE SETBACKS
- BUILDING OVER SETBACKS
- USE OF SIDEWALKS
- USE OF SIDEWALKS
- USE OF SIDEWALKS
- USE OF SIDEWALKS

 Variances issued

The Zoning By-Law states that:

"The Board of Appeals may authorize upon appeal a variance from the terms of these by-laws with respect to a particular parcel of land where, owing to conditions peculiar to such parcel, a literal enforcement of the provisions of these by-laws would involve substantial practical difficulty and hardship."

Since 1962 the Yarmouth Board of Appeals has issued 141 variances. For the purposes of this study, these have been classified into the following types.

TABLE 5: VARIANCES GRANTED

	Number granted
Setback -- deviations from standard setback requirements	92
Dimension -- one or more site dimensions below the allowed minimum	17
Small lots -- area of lot below minimum requirement	9
Sign -- deviation from allowed number or size of signs	15
Use -- different use from those allowed in a particular district	8

Setbacks

By far the greatest number of variances are issued for deviations

from setback requirements. These deviations are generally trivial involving only two or three inches. They often result either from mistakes in setting out the dimensions of foundations, or lack of knowledge on the part of owners that there is any requirement to which they have to comply. The majority of the decisions relate to residential properties and are evenly distributed across the whole of Yarmouth. Corner lots are frequently involved because many people do not take into account the road radius at corners in calculating setbacks. They apply for variances when the Building Inspector refuses to grant a permit because setting out dimensions contravene the Zoning By-Law. Also these corner lots tend to be awkward left over shapes, or have acute angled corners which make compliance with the setback requirement difficult or impossible.

No variances have been granted for substantial deviations. Because the deviations are so minor it is unlikely that setback variances have significantly altered the visual quality of Yarmouth as a whole though it is possible that an immediate neighbor may have felt his personal environment had been changed by the granting of such a variance.

The setback variances which have been granted in the commercial areas along Route 28 and Route 6A are also for trivial differences from the requirements. Since setback variances have not resulted in the deterioration of residential districts it is unlikely that similar deviations have adversely affected these commercial areas.

Dimension

The dimension variances are also generally for trivial deviations

-- in the order of a few feet. They are issued when a site, which conforms to the lot area requirements, has one or more dimension below the minimum allowed. This is normally the length of frontage along the road. These sites are located in the older parts of the Town (no dimension variances have been applied for in the newer subdivisions) where sites were laid out before the requirements were drawn up. They are frequently left over pieces of land, surrounded by developed lots. Applications for dimension variations have been turned down occasionally when the Board of Appeals has considered the frontage too narrow to provide proper egress from and access to the site.

In fourteen years only seventeen such variances have been granted, and the majority of these are for trivial dimensional irregularities. They are widely dispersed across the town. Thus dimensional variances cannot have had a significant affect on visual quality.

Small lots

Occasionally, areas which are left over after a district has been subdivided are too small to conform with the area requirements laid down in the Zoning By-Law. In cases where the deviation is small, variances have sometimes been issued to allow development which in all other ways conforms with the requirements of the By-Law. Only nine such variances have been granted within the last fourteen years. The Board of Appeals is careful only to issue such variances in cases where the reduction of site area is minimal. Many applications are denied. Yarmouth is dotted with vacant sites many of which are undeveloped because they are under area.

The variances which have been granted are too few and too dispersed to have significantly affected Yarmouth's visual quality.

Signs

Signs are a major issue in Yarmouth. They are the source of many complaints relating to environmental quality, the subject of innumerable attempts at control. The Board of Appeals has been suspected of allowing a proliferation of non-conforming signs, yet, in fourteen years only fifteen variances have been issued which relate to signs. However, some of these have allowed significant changes from the provisions of the By-Law. In one case, for instance, a sign of 60 square feet was approved, while the maximum allowed sign is only 30 square feet. This sign is located on the edge of the industrial district near the Mid-Cape Highway. The Board of Appeals, in granting the variance, took into account the location, away from residential districts, and allowed a sign more related to the scale of the Mid-Cape Highway than the rest of Yarmouth.

Though a total of only fifteen sign variances have been issued, these are grouped in certain areas. For example, the area of Route 28 at the intersection with Winslow Grey Road and South Sea Avenue contains eight of the fifteen variances. It should be noted, however, that some of these do not relate to deviations from the size or number requirements of the By-Law but have been issued in conjunction with a permit to allow a commercial building in a residential area. There may be some confusion as to whether variances are required to erect signs, which would not otherwise have been allowed in a residential district,

when a special permit has been issued to erect commercial premises. Not all commercial uses which have been allowed on Route 28 by special permit have applied for special permission to erect signs, yet all commercial buildings do have signs of one sort or another. These signs however, whether officially approved or not, generally conform to the size and number requirements of the By-Law.

Illegal signs are perceived as being a problem. Temporary signs are regulated in the By-Law but have proved impossible to control. In the summer, during the height of the tourist season, many illegal temporary signs, line the roadside.

Many municipalities suffer problems related to off-premises signs. The erection of such signs is severely restricted in Yarmouth's By-Law. They have been successfully regulated out of existence in Yarmouth. The only off-premise signs which do exist in Yarmouth are informational or directional signs which are generally not offensive.

Thus signs are a complex issue. They are perceived as a major problem, but on analysis they have been strictly and effectively controlled.

Dispite the small number of variances involved, because of the way they are grouped and because so much concern surrounds them, their effect on visual quality will be examined more closely.

Uses

Use variances are generally the ones most likely to be surrounded by controversy. They represent the possible erosion of residential areas by less desirable uses. In Yarmouth this kind of concern has

been expressed, but if residential districts are being eroded it is not by means of the issue of use variances. Only eight such variances have been issued in fourteen years.

Of these one relates to the continuation of a non-conforming use. A variance was required because no hard evidence of existence prior to the enactment of zoning legislation in 1946 could be found. A second allowed the sale and servicing of new and used mechanical equipment on a site in a residential area but in an undeveloped part of the Town. Thus neither of these could be considered as contributing to the erosion of residential neighborhoods.

The remainder could be considered as contributing to erosion but for the fact that there are so few of them. An office extension was allowed in a residential area, to serve an office building on an abutting site in a business district. An addition was allowed, and a garage was removed to allow employee parking, for an existing commercial building in a residential district.

On Route 6A, in the Historic District, variances were granted to two adjacent banks to provide additional car parking. The way in which this was designed is discussed in detail in the chapter on visual quality.

On Route 28, an aquarium allowed on special permit, was also given a variance, because part of the land was zoned residential.

One variance was granted to allow guest rooms and motel units plus additional recreation facilities to be added to an existing club house in a residential district.



 Special permits

The Zoning By-Law provides for the issue, by the Board of Appeals, of special permits for various specified kinds of uses, in each class of district.

The Board has been very active in issuing special permits in the last fourteen years, 147 permits have been issued in all. These can be classified according to the following types.

TABLE 6: SPECIAL PERMITS GRANTED

	Number granted
Commercial Uses -- in residential districts along Route 28	34
Professional Uses -- small scale professional or commercial uses in conjunction with a residential use in a residential district	30
Hotels or Motels -- in residential areas	39
Institutional use, hospital or nursing home -- in a residential or business district	11
Amusement use -- in a business, highway commercial or industrial district	11
Multi-family housing -- including open space villages in residential and highway commercial districts	10

Municipal uses -- in residential and highway commercial districts	4
Wetlands -- any kind of development in a wetlands district	6
Other	1

In general the special permits which have been granted are not evenly distributed across the whole of Yarmouth but are generally grouped around Route 28 and South Shore Drive.

Commercial uses

Until 1971 the Zoning By-Law stated that:

"In those districts now designated as residential districts on Route 28 from the Hyannis/Yarmouth line to Bass River, any uses permitted in a business district (will be permitted) with the approval of the Board of Appeals by way of a special permit".

These areas along Route 28 are the only places where commercial uses have been allowed on special permit. When Route 28 became the Highway Commercial District in 1971 commercial uses were allowed without requiring special permits.

Thus though there have been only 34 permits issued these are all located in a relatively small area. They are grouped along two stretches of the highway, virtually all the permits are located in these two areas. The section of Route 28 between the Parkers River and the intersection with Main Street was always zoned as a commercial district. Special permits were, therefore, not required for commercial



Professional uses

uses along this stretch. Another major section of Route 28 where no special permits have been issued for commercial development (in the vicinity of Mill Creek) was developed before 1962 but much of this area too was always zoned for business uses.

The permits which have been issued for commercial developments relate to projects of every scale from gift shops and small restaurants to drive-in shopping centers.

Under the leadership of Harold Hayes, past chairman of the Board of Appeals, the Board adopted a policy of only allowing commercial uses in or adjacent to areas where such uses already existed. However, the Board was only authorized to issue such permits along Route 28. By 1962, Route 28 already had commercial development along its whole length, though some residential buildings were, and still are, intermixed with the other uses.

Special permits for commercial uses have only been issued for development in the area of Yarmouth frequently regarded by residents as having a poor visual quality. The issue of these special permits could therefore have been instrumental in creating these visual problems.

The 30 special permits in this category are dispersed across the whole of Yarmouth. They can be further subdivided into the following categories.

TABLE 7: SPECIAL PERMITS FOR PROFESSIONAL USES GRANTED

	Number granted
Real estate office in the home	12
Medical offices in the home -- dental surgeons, optometrists, etc.	7
Other professional uses in the home -- attorney, tax consultant, etc.	2
Telephone exchange/answering service	3
Small scale commercial use in home -- beauty parlor, antique shop, etc.	4
Other: Nursery school	1
Horticultural business	1

The number of permits issued for real estate offices in one indication of the rapid growth rate which Yarmouth has experienced during the study period.

Though special permits for professional uses are more equally dispersed across the whole of Yarmouth one third of them (10) are located on or adjacent to Route 28. A second third are situated along the other major thoroughfares, for example, Route 6A has two, Station Avenue has 3, South Sea Avenue has two, etc. There is no obvious difference between the kinds of special permits located on or off the

major routes.

No conclusions can be drawn at this stage about the influence special permits for professional uses have had on visual quality.

Hotels and motels

The largest number of special permits have been issued for uses in this category. They are all located in a few small geographic areas.

Sixteen relate to locations on Route 28 and eighteen on South Shore Drive. The remaining locations are all in close proximity to other parts of the south shore.

In many cases a small motel, which has been granted a special permit, has expanded on subsequent special permits, to become a large motel. In several cases one motel has been granted three or four permits during the past fourteen years.

All the motel and hotel permits are located on the south side of Yarmouth. This is not an indication of a possible decision by the Board of Appeals to issue such permits in selected areas, but rather a reflection for the pressure for development. Historically the south of Yarmouth has been more favorable for resort development because of the warmer water and sandier beaches. Precedent is also important. Applications are only made where there is a reasonable chance of permission for development being granted. Potential developers may refrain from applying for permission on the north side because of an unwritten understanding or an assumption on their part that such permits would be denied.

Because a large number of permits relate to Route 28 they could be

a contributing factor to the visual quality of this area.

Amusement uses

Of the eleven special permits issued in this category six are located along Route 28. The remainder are in the industrial area in the vicinity of the Mid-Cape Highway. The latter are only visible from the Highway and are, therefore, not very evident to Yarmouth residents. Those on Route 28 are much more obvious and could have contributed to visual quality.

Institutional uses, nursing homes and hospitals



Special permits in this category have been issued for the erection of buildings for medical purposes. This is in contrast to special permits for professional uses many of which refer to the conversion of parts of residential buildings for medical offices.

These buildings are grouped on two sites -- on Station Avenue, and Bayberry Road -- into small scale medical complexes. The scale and character of these buildings, however, is such that they are hard to distinguish from the adjacent residential properties. The remaining four permits are widely dispersed. On North Main Street two nursing homes for the elderly have been erected on special permits. They display a scale similar to small apartment complexes.

Because the character of these buildings is generally similar to the residential structures which surround them, and because only eleven permits have been issued in the study period, they have probably not contributed to changes in visual character.

Multi-family housing



Municipal uses

In 1970 a new section was added to the Zoning By-Law which allowed the construction of apartment complexes on approval of the Board of Appeals in residential and business districts outside the Yarmouth Historic District. Until this time there was no provision in the zoning for the construction of multi-family housing anywhere in Yarmouth. Later, in 1973, the section on apartments was replaced by the Open Space Village Development section. Thus the ten permits issued have all been issued in the last five years. Yarmouth unlike other small towns has been allowing the development of multi-family housing.

Though only ten permits have been issued, the construction of multi-family housing represents a marked departure from the traditional Yarmouth housing stock. Each special permit relates to a large scale development, a typical example provides for 210 units on a 32 acre site. Thus each permit represents a more dramatic change in the environment than a permit in most other categories.

The recent and continuing trend to construct multi-family housing in Yarmouth has undoubtedly had a significant impact on the visual character of the town as a whole.

Of the four permits issued in this category two allowed the "removal of sand, rock and fill and use as a sand pit" of the same site on Great Western Road, in an industrial zone, in a relatively undeveloped part of the Town.

The other two permits allowed for the construction of buildings for municipal uses: a combined office and garage facility for the Highway

Department; and a garage to store vehicles for the Sanitary Department on the Town Dump.

Because of the small number of permits and the out-of-the-way locations involved, special permits for municipal uses cannot have affected the visual quality of Yarmouth to any significant degree.

Wetlands

No structures can be erected in a Wetland Conservancy District without a special permit from the Board of Appeals.

Since 1973, six permits have been issued for development in such areas. Only one of these related to the actual erection of a structure -- this was a case of an open space village development encroaching on a wetland. The remaining five permits allowed the construction of two retaining walls and two artificial ponds for drainage purposes. The development which has occurred in wetlands areas since the requirement for special permits was introduced has been minimal in nature. However, the purpose of the wetlands provisions is conservation. The fact that almost no development has occurred in wetlands areas since 1973 may indicate a significant effect in terms of conservation on the visual quality of Yarmouth.

Non-conforming uses

The Zoning By-Law allows the continuation of uses, which existed before the By-Law was enacted and which do not conform to its provisions. Areas which were developed before 1946, when the By-Law was first passed, tend to have a greater mix of land uses than those areas developed later. The residential areas of Yarmouth which were already

in existence in 1946 have commercial, professional and institutional buildings intermixed with housing.

The Zoning By-Law empowers the Board of Appeals to:

"permit any non-conforming use to be changed to any specified use not substantially different in character or more detrimental or objectionable to a neighborhood".

Since 1962, 42 such permits have been issued. These can be divided into two basic types. The first type allows a change from one non-conforming use to another. The second allows an existing non-conforming use to expand.

Changes in non-conforming uses

Fifteen permits fall into this category. The changes may involve no physical changes to the outside of buildings, such as when an insurance office is changed to a real estate office, or they may be granted to allow the demolition of one building and the erection of a new structure to serve the same or a new non-conforming use. In several cases, for instance, cottage colonies have been replaced by motels.

Based on the descriptions in the applications all such permits issued during the study period seem to conform with the By-Law in that they are only issued in cases where the new use is not substantially different in character from or more detrimental than the one it is replacing. In cases where new buildings have been erected these are as likely to have contributed to visual quality as the erection of any other new building. Where uses have merely preempted former uses without change to the exterior appearance of the premises this has not

contributed to visual quality in any way.

Extensions to non-conforming uses

The remaining twenty-seven permits have been issued to allow extensions of existing non-conforming uses. All kinds of non-conforming uses are involved. Changes have been made to commercial, office, motel and hotel buildings located in residential areas, and to buildings which are non-conforming because they violate the setback or lot size requirements.

The extension of non-conforming uses may have affected visual quality. The permits which have been issued are grouped in two areas which were both developed before zoning was enacted: Main Street, South Yarmouth near Bass River; and along Route 6A. If such uses had originally made either positive or negative contributions to visual quality, their growth may have increased the impact of these contributions.

Summary

At this stage the following types of zoning actions have been precluded from having had any significant effect on visual quality in Yarmouth.

Variances for:

- setbacks
- dimension
- small lots
- uses

Special permits for:

- institutional uses, hospitals and nursing homes

municipal uses

Changes in non-conforming uses which do not include exterior alterations.

However, other actions taken by the Town in relation to zoning, legislative changes or administrative actions, which may have affected visual quality, will be considered further. These are:

Variances for:

signs

Special permits for:

commercial uses

professional uses

hotels and motels

amusement uses

multi-family housing

wetlands

Extensions of non-conforming uses

Changes in the Zoning By-Law

Changes in the Zoning Map

The possible impacts on visual quality of these actions will be studied by inferring the ways in which they have affected the areas where visual quality has been measured in detail.

Chapter 7:

Relationship between Visual Quality and Zoning Decisions

Introduction

Chapter VI concluded with a list of zoning actions which were most likely to have contributed to visual quality in Yarmouth and the visual quality study resulted in a list of components which are the most important determinants of visual character. The following discussion explores how these components have been affected by each zoning action. Only then can recommendations be made about changing zoning actions to improve visual quality.

Conclusions can only be drawn about zoning legislation and administrative actions which have affected one or more of the areas studied in the visual quality section. For zoning actions which took place in other parts of the town though visual quality may have been substantially impacted, no conclusions can be reached about the specific effects on visual quality.

TABLE 8: ZONING ACTIONS AFFECTING THE THREE STUDY AREAS

	Route 6A	Route 28 (W)	Route 28 (S)
1962 By-Law	yes	yes	yes
By-Law changes:			
highway comml.	-	yes	yes
industrial	-	-	-
wetlands	-	-	-
motels	-	yes	-
apartments	-	-	-
open space vill.	-	-	-
site plan review	-	yes	yes
parking	yes	yes	yes
Map changes	-	yes	yes

	Route 6A	Route 28 (W)	Route 28 (S)
Sign variance	-	yes	-
Special permits:			
commercial use	-	yes	yes
professional	-	yes	yes
hotel/motel	-	yes	-
amusement	-	yes	-
multi-family	-	-	-
wetlands	-	-	-
Non-conforming use:			
extension	yes	-	-
change	-	-	-

Amendments to the By-Law relating to Industrial and Wetlands Conservancy Districts, and apartment and open space village development could have influenced visual quality but, because there is no incidence of actions relating to these changes in the three areas where visual quality has been analyzed, no further conclusions about their possible impacts can be drawn. Similarly, nothing can be deduced about how special permits for development in Wetlands Conservancy Districts and for multi-family housing, or changes in non-conforming uses have influenced visual quality.

1962 By-Law

In 1962 the portion of Route 6A which has been analyzed in detail was mostly zoned for residential uses, with a small commercial section where a group of existing stores was located. Very little development has taken place along Route 6A since 1962 and thus its quality has not been affected by the provisions of the 1962 By-Law.

In 1962 the West Yarmouth section of Route 28 was zoned partly for residential and partly for business use. The whole of the South Yarmouth section was zoned residential. However, commercial development was allowed on special permit in the 1962 By-Law on residentially zoned sites abutting Route 28. Thus the By-Law allowed a mix of uses to develop, which was different from that in other residential areas of Yarmouth. As a result of the commercial development which took place the number of commercial signs was increased and large car parking areas were constructed on either side of the road. Where the boundary between the road and parking areas was not carefully detailed with curbs, fences, or grass strips, or where curb cuts were excessively generous the definition of the edge of the road was destroyed.

Most lots which have been developed during the last fourteen years in any of the areas studied substantially exceed the minimum size requirements, thus lot size is probably a consequence of other factors and not zoning requirements.

All new structures have been subject to the 30 foot setback requirement but in virtually every case buildings have been set back more than that in order to accommodate car parking in front yards. Thus the setback requirements themselves have not influenced visual quality.

Most development which has taken place has not been influenced by any of the changes or been subject to the issue of a special permit or variance but, since the regulations were not very extensive, these have generally not restricted development and thus not affected visual quality.

Changes in the By-Law: Highway
Commercial District

The introduction of the Highway Commercial District did not substantially affect the type of uses which located along Route 28. But the visual quality has been changed because of the provisions in the By-Law relating to site design. Provisions were added to the By-Law to require a 10 foot wide landscaped strip between the road and any car parking areas, only one 24 foot wide access driveway per 125 feet of frontage was allowed. This resulted in developments where the edge of the road was properly defined.

The scale of car parking areas could have been increased because car parking requirements were increased. Yet since these minimum standards have generally been exceeded, the increased scale is probably a result of other factors.

Changes: Motels

The section on motels was added to the By-Law in 1965 and imposed several additional requirements for any motel development. Motels have been built in the West Yarmouth portion of Route 28 under the provisions of this section.

Lot area requirements were increased, but it is not clear whether larger lots actually resulted, since many earlier motels had occupied lots larger than the minimum.

Side yard setback requirements were increased which could have led to the creation of larger spaces between adjacent buildings.

Changes: Site plan review

The section on site plan review does not add any specific use or lot size regulations to the By-Law, but requires plans to be submitted

to the Town Engineering Department for review. They are required to make a series of findings, regarding safety and compliance with other provisions of the By-Law, but also dealing with visual quality issues. The department must determine whether:

"Reasonable use is made of building location, grading and vegetation to reduce visibility of parking areas from public ways."

"Major topographic changes or removal of existing trees are avoided"

"In or abutting residential districts, effective use is made of topography, landscaping and building placement to maintain, to the degree feasible, the character of the neighborhood."

Few buildings have been erected in the areas studied since the introduction of the site plan review requirement. To assess its effectiveness specific developments would have to be analyzed to determine whether and in what ways these developments had been changed because of the review process or its stated criteria.

Changes: Parking requirements

The section on parking regulations was added to the By-Law in 1975. Few developments have been built in the areas studied since its enactment, but it is possible to assess the effects of its provisions on the future visual quality.

By requiring trees in parking areas for 20 or more cars, the area of asphalt visible from the road will be reduced. Given time these trees will grow to enclose the viewshed.

Twenty foot wide grass strips will help give better definition to the road edges and provide a visual break between the road and parking areas.

The effect of screening parking areas from residential districts with densely planted shrubbery, walls and fences, will be to give more definition to property boundaries and to reduce the view down the road.

Though the number of car parking spaces required is generally the same as for the Highway Commercial District and for motel developments, standards have been added for residential districts. These requirements reflect the numbers of spaces which are generally provided for residential uses now, so the area of asphalt associated with buildings will not change substantially.

Changes in the Zoning Map

The only map change which has affected Route 6A or Route 28 is the introduction of the Highway Commercial District. This did not dramatically change the kinds of uses located along Route 28. Commercial uses built on the approval of the Board of Appeals by way of special permits, were already located all along Route 28 before the new zone was introduced. This is a case in which the zoning was changed after the fact.

Though the Highway Commercial District did not change the type of uses which located along Route 28, the detailed regulations, discussed above, changed the lot size and car parking requirements.

Sign variances

Sign variances have been issued for two reasons: to grant additional or larger signs than those allowed in the By-Law. The area with the greatest preponderance of sign variances is the area of Route

28 which has the most signs. Of the sign variances issued in this area half are for signs larger than those allowed in the By-Law and half for extra signs which conform to the size requirements. The relationship between size of sign and visual quality has not been studied but the number of signs which can be seen from any point along the road has been shown to affect visual quality significantly.

It is fair to say that the issuance of sign variances for extra signs has led to a greater number of accessory elements and thus affected visual quality.

Special permits: Commercial uses

Before the introduction of the Highway Commercial District the Zoning By-Law allowed commercial uses to be located in residential districts along Route 28 on approval of the Board of Appeals by way of a special permit. No commercial uses were ever allowed in residential areas along Route 6A. Since the Highway Commercial District was introduced special permits have not been required for this type of development and the effect of issuing them is only of historic interest.

The development of commercial uses has affected the visual quality of Route 28. The road margin became less defined when large areas of car parking were constructed in front of commercial buildings for the convenience of customers and were separated from the edge of the road only by curbs or narrow strips of poorly maintained grass, and in some cases by nothing at all.

The number of signs, both freestanding and attached to buildings, was increased, and light poles were erected in parking forecourts.

The scale of the environment was changed. The commercial buildings erected on such special permits, tended to be larger than the residential or smaller scaled commercial buildings that they replaced.

The distance across the road was increased because of the car parking areas which were provided in front of buildings, these also increased the proportion of asphalt surface within the viewshed and made the view much more open.

Some of the permits related to the erection of shopping plazas which required the aggregation of several smaller lots into one large one.

Special permits: Professional uses

The issuance of special permits for professional uses along Route 28 is also only of historic interest, because such uses are allowed without special permits in the Highway Commercial District.

Special permits which were issued for professional uses along the two areas of Route 28 considered in the visual survey, related to the use of residential buildings for either real estate offices, a beauty salon or a physician's office. All were in conjunction with the use of the buildings for residential purposes. Special permits for these kinds of professional uses are granted in any residential area in Yarmouth, however, none were granted on the portion of Route 6A considered in this study.

The vehicular access and parking areas which have been added in two cases have not detracted from the definition of the edge of the road because they only provide for one or two cars.

Signs, both attached to buildings and freestanding, have been erected to advertise the services offered.

The only scale element which has been changed is the area of asphalt, when additional car parking spaces have been provided. Buildings and lot sizes have remained unchanged.

Special permits: Motels and hotels

Since the Highway Commercial Zone was introduced hotel and motel uses have been allowed to locate along Route 28 without applying for special permits. Such permits were always allowed on approval of the Board of Appeals in all residential districts in Yarmouth, however, no permits have been issued for hotels or motels along Route 6A. Those hotels or motels which are located along Route 6A were in existence prior to the introduction of zoning to Yarmouth.

Three permits were issued for motel uses on the West Yarmouth section of Route 28 during the study period. In these particular cases the areas in front of and around buildings were generally landscaped and the edge of the road defined by a change in material or low fences, in order to make the buildings more attractive and encourage patronage.

In one case the name sign was fixed to the building, in another a freestanding sign was erected, the number of permanent signs associated with these motels was very small. No light poles were erected in the parking areas, any necessary illumination being attached to the buildings.

Two of the permits related to cabin type developments in which the scale of the buildings was very small. The other was a larger scaled

conventional motel. The area of asphalt was increased to provide car parking for all the units. Scale has been increased but not to the same degree as when commercial buildings have been allowed.

Special permits: Amusement uses

Of the three areas studied, special permits for amusement uses have been issued in only one, the West Yarmouth section of Route 28. Five permits were issued in this area but one was for a purely internal change and another was never carried out. Thus only three have influenced visual quality.

Large areas of car parking were associated with these permits, and the parking areas were only separated from the road by a low timber fence with no change of material. Almost no landscaping was provided around structures.

Signs were erected, both freestanding and attached to buildings, and car parking areas illuminated from tall light poles.

Extensions to non-conforming uses

Of the three areas included in this study only Route 6A was developed before the introduction of zoning in 1946. Therefore, this is the only area where non-conforming uses exist.

Additions which have been made to buildings are small scaled and detailed in such a way as to blend in with the original buildings and the surroundings. These changes have not had a significant effect on visual quality.

Two permits granted the expansion of car parking areas for two adjoining banks. Though the area of asphalt was increased some of the

additional spaces were located behind the buildings outside the viewshed. The area of car parking in front of the buildings was well separated from the road by a 20 foot wide grass strip, planted with mature trees and having only narrow egress and access points to the road. Areas immediately around the buildings were carefully landscaped. Visual quality was retained by careful design.

Chapter 8:

Recommendations

Introduction

Having drawn some relationships between zoning actions and visual quality it is now possible to make recommendations about how the zoning legislation and administration could be changes in order to affect visual quality in the future.

It should be pointed out that these recommendations are only made from a perspective of concern for visual quality. Before any of the policies suggested can be implemented their consequences on other aspects of the environment: cost; land value; traffic flow; safety, etc. must be assessed and weighed against the aesthetic benefits.

Tree planting

Requirements should be added to the By-Law sections on the Highway Commercial District, Business Districts and motels that trees be planted along the property boundaries adjacent to and parallel to the road. It has been suggested that many varieties of deciduous tree are unsuited to the sandy soil on the south side of Cape Cod. However, there are places on Route 28 where such trees do grow, for instance, the cemetery in West Yarmouth is surrounded by mature trees. More research would have to be done to assess the most suitable types, but even the scrub pines which grow naturally in the sandy soil can reach a reasonable height when planted singly.

Trees along the road margins would limit the view down the road and thus reduce the number of commercial and road signs in the long distance view. They would also reduce the visual impact of the utility poles which today are a dominant element lining the road.

Trees on property boundaries perpendicular to the road would also

help screen the view and would provide a visual break between one area of car parking and the next.

Car parking

The kind of car parking requirements which are included in the By-Law automatically result in a high proportion of lots being covered in asphalt.

Some design guidelines have recently been incorporated into the car parking section of the By-Law, which will result in some improvements to the appearance of car parking areas, but these could go further.

The number of parking spaces provided in front of buildings should be limited to those required for year round parking. Additional, seasonal demand being accommodated to the rear of buildings, out of the immediate viewshed. Such areas could be partially visible from the road, like the parking area for the Yarmouth Inn on Route 6A, but would not dominate the foreground. This objective could be achieved by including in the By-Law a maximum as well as a minimum setback requirement for buildings.

There should be a restriction on the unbroken area of asphalt allowed in one car parking lot. No lot should accommodate more than 20 cars without being subdivided into smaller lots, with visual barriers in the form of trees or dense shrubbery between them.

Landscaping around buildings

Landscaped strips should be required around buildings, to separate them from car parking areas. These would be in the order of 10 feet

wide, but the actual requirement should be geared to the size and scale of the buildings. Larger buildings would require wider landscaped strips.

Height limit for light poles

There should be a maximum allowable height limit for light poles when these are provided in car parking areas. The height limit should relate to the height of the surrounding buildings and trees so that light poles do not become the most dominant elements in the environment. From the point of view of visual quality many small light poles are better than a few very tall ones.

Number and design of signs

The By-Law could require that shopping center developments, or other groups of commercial buildings developed at one time, on a single lot, have a coordinated system of signs. Freestanding signs should be grouped on one aggregated sign board and signs attached to buildings should be of similar design and dimensions.

Scale of buildings

Requirements could be included in the By-Law which could reduce the apparent scale of structures. Such requirements are already included in some sections, for example, the open space village development section states a maximum number of units allowed in one structure, which ensures no large building masses are created. Similar requirements could be added for motel buildings.

Commercial or recreational buildings could be required to conform to maximum size requirements in terms of limits on unbroken floor area

or length of facade which would serve to break up their apparent scale.

Granting of special permits

The new Massachusetts Zoning Enabling Legislation allows the authority to issue special permits to be vested with the Planning Board rather than the Board of Appeals.

During the study period large numbers of special permits have been issued which have contributed significantly to the overall form of the Town of Yarmouth. Some of these changes have been at odds with the intentions as expressed in the Zoning Map. For example, a motel district has been developed on South Shore Drive in an area which has always been zoned residential.

If the issue of special permits has had such a significant effect on the plan of the town then the authority for issuing them should be more closely related to the authority for other kinds of planning functions. In other words, logically the authority should rest with the Planning Board. If this is not deemed desirable from other points of view then more specific guidelines should be provided for the issue of special permits. Such guidelines are already included in the By-Law for development in wetlands areas. Similarly detailed guidelines should be provided for every circumstance in which a special permit is likely to be granted.

Chapter 9:

Critique of Methodology

The major purpose of this study was to develop a methodology for analyzing visual quality and understanding the relationship between visual quality and zoning actions. This final chapter is an evaluation of the method employed and contains some recommendations about improvements which could be made in the future.

By using a comparative method and defining visual qualities in quantifiable terms it was possible to make a rational assessment of the components of visual quality which contributed most to the creation of a 'good' or 'bad' visual environment without placing meaningless numbers on characteristics which have no meaning in absolute terms.

However, problems arose when making conclusions about how the 'bad' environment could be changed to include some of the qualities of the 'good' environment. The two areas studied served very different functions, and it was not clear how much the functional differences contributed to the difference in visual quality. In a future study areas which are functionally more similar should be chosen for comparison.

Using areas in the municipality, which were commonly regarded by residents as having 'good' and 'bad' visual quality, for comparative purposes, resulted in the identification of visual problems which seemed meaningful to at least a limited set of Yarmouth people, i.e. some members of the Planning Board, Board of Appeals and the Building Inspector and others to whom the results of this study were presented. Since they did not raise important issues relating to visual qualities which had been ignored in the study it can be concluded that the attempt to come up with a meaningful set of issues, in a situation where

protracted community participation was impossible, was reasonably successful.

The detailed analysis of zoning actions was interesting and informative in itself. Never before had the Board of Appeals or the Planning Board had the opportunity to view the aggregate effect of all the individual decisions, made over a period of years. This proved very useful. It has helped to allay suspicions that the Board of Appeals decisions were undermining the planning goals of the Town, in terms of allowing multiple deviations from the regulations laid down in the By-Law. For instance, the small number of use variances which had been issued in the fourteen year period was a surprise. It became obvious that so few had been issued that impacts in terms of neighborhood erosion were negligible and that those which had been granted were for genuine special cases. This knowledge can now help inform the decision which the Town has been considering of whether to allow the Board of Appeals to continue granting use variances, in light of the new Massachusetts Zoning Enabling Act which allows a municipality to chose whether or not such variances will be granted.

The recommendations which have resulted from this rigorous analysis are not substantially different from those of other less systematic attempts to understand and control similar problems elsewhere. However, the systematic approach allows a general understanding of the basic assumptions which have been made and thus decision makers are better able to judge whether the recommendations would meet their own goals and priorities in relation to visual quality.

The ultimate test of the success of the method would be to implement the recommendations and see whether people's perceptions about the visual quality of the areas was improved as development which conformed with the new regulations took place.

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 9. Housing and Home Finance Agency, Comparative Digest of Municipal and County Zoning Enabling Statutes, Washington: U.S. Government Printing Office, 1952, p.32.
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11. Southworth, Op. Cit., p. 235.
 12. Kreimer, Alcira, Recreation and Environmental Resources: Preferences, Users and Economics -- A critical Analysis of some Methodologies of Research, Unpublished Paper, Department of Landscape Architecture, University of California, Berkeley, 1974, pp. 1 - 28.
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 17. Southworth, Op. Cit., p. 236.
 18. Birch, David, Atkinson, r., Sandstrom, S., and Stack, L., Patterns of Urban Change, Lexington, Mass.: Lexington Books, 1974, Chapter 2.
 19. For one discussion of this see Lynch, K., Op. Cit., pp. 194 - 195.
 20. Southworth, Op. Cit., p. 239.
 21. For one example see Rasmussen, ., Experiencing Architecture,
 22. Lynch, Op. Cit., pp. 192 - 194.

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23. Opinion stated by Harold Hayes, past chairperson of the Board of Appeals during an interview conducted for the purposes of this study.

Appendix :

Annotated By-Law

TOWN OF YARMOUTH ZONING BY-LAW

A by-law to promote the health, safety, convenience, morals and welfare of the inhabitants by dividing the town into districts and regulating the use and construction of buildings and premises therein.

Renumbered 1973 - old

SECTION 1. ESTABLISHMENT OF DISTRICTS

- new

SECTION 18.01. ESTABLISHMENT OF DISTRICTS

Rewritten 1973 - old

1. CLASSES OF DISTRICTS. The Town of Yarmouth is hereby divided as shown on the Zoning Map dated Dec. 28, 1945, and filed with the Town Clerk, into three classes of districts: RESIDENCE DISTRICTS, BUSINESS DISTRICTS, INDUSTRIAL DISTRICTS.

- new

1. CLASSES OF DISTRICTS. The Town of Yarmouth is herewith divided into the following classes of districts:
 Residential: RD-1, RD-2, RD-3, and RD-4
 Business
 Highway Commercial
 Industrial

These districts are defined and bounded as shown on the map filed with the Town Clerk and entitled "Zoning Map, Town of Yarmouth, December 26, 1972", as most recently amended. This map and all explanatory matter thereon is hereby make part of this by-law.

Notwithstanding the aforesaid zoning map, the Residential Districts abutting the Highway Commercial District and Business Districts numbered Sections 13 through 20 and 22 on said map begin at the rear boundary lot line of said Highway Commercial or Business District.

Added 1973

There shall also be a Wetlands Conservancy District as an overlay to the above districts, with location and boundaries as shown on a map entitled "Map of Conservancy Districts in the Town of Yarmouth, Mass." dated January 15, 1973, filed with the Town Clerk, and hereby made a part of this By-Law. Detailed Soil Survey Field Sheets, on file with the Town Clerk, shall be used if necessary to determine boundaries with respect to any given parcel.

Title added 1973

2. REAR BOUNDARY LINE IN BUSINESS DISTRICTS

Reworded 1973 - old

In a business district the rear boundary line shall be the existing rear boundary lot line as of date of acceptance of this ordinance, not to exceed however 1200 feet in depth.

- new

In a business district the rear boundary line shall be the existing rear boundary lot line as of March 15, 1946, not to exceed, however, 1200 feet in depth.

Added 1973

The rear boundary lot line for purposes of district definition is defined as that boundary line of a lot shown on a plan of land recorded with the Barnstable County Registry of Deeds or Land Registration Office or described by deed, which is opposite the street line of Route 28.

3. LOTS IN TWO DISTRICTS. Where a district BOUNDARY LINE divides a lot in a single or joint ownership at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.

Deleted 1973

4. Residence districts will be further divided into districts to be known as RD-1, RD-2, RD-3, RD-4. These districts are shown on a plan entitled RESIDENTIAL ZONING MAP OF THE TOWN OF YARMOUTH dated February 1, 1960, excepting therefrom the business and industrial districts shown on the Town of Yarmouth Zoning Map approved by the Attorney General on August 14, 1958, said district to remain as presently set forth.

Renumbered and title changed

- old

SECTION II. RESIDENCE DISTRICT USES

- new

SECTION 18.02. RESIDENTIAL DISTRICT AND USES

In a residential (*residence*) district no building or premises shall be erected, altered or used for any purpose except:

1. One or two-family dwelling. A dwelling is defined to be a building designed for residential purposes and not a trailer whether mobile or immobile and however said trailer might be affixed to the land;
2. The taking of boarders or leasing of rooms by a family resident in the dwelling;
3. Church;
4. Educational use;
5. Farm or garden;
6. The handling of fish on the same premises where brought in from the sea, including sale;

Moved to 11(M) 1973

- 6A. *Professional uses that are in conjunction with residence uses providing that it will not substantially change the use of the dwelling as a residence, upon the approval of the Board of Appeals.*

Added 1964

Renumbered 1973

7. Yacht clubs not conducted for profit and in existence in the Town of Yarmouth prior to January 1, 1964.

Renumbered 1973

8. Accessory use on the same lot or contiguous lots held under the same ownership with and customarily incident to any of the above permitted uses and not detrimental to a residential neighborhood.

Added 1971

Renumbered 1973

9. The term "accessory use" in this section shall include the parking or storing of an owner's camping and recreational equipment on private residential property subject to the following conditions:
 - (A) At no time shall such parking or stored camping and recreational equipment be occupied or used for living, sleeping or housekeeping purposes.
 - (B) If the camping and recreational equipment is parked or stored outside of a garage, it shall be parked or stored to the rear of the front building line of the lot, except for loading and unloading.
 - (C) For the purposes of this By-Law, camping and recreational equipment shall include the following:
 - (1) Travel trailer - a vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel

trailer" by the manufacturer of the trailer, and having a body width not exceeding eight feet and a body length not exceeding thirty-two feet.

(2) Pick-up coach - a structure designed primarily to be mounted on a pick-up truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation use.

(3) Camping trailer - a canvas, folding structure mounted on wheels and designed for travel, recreation and vacation use.

(4) Motor home - a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self propelled vehicle, having a body width not exceeding eight feet and a body length not exceeding thirty-two feet.

(5) Boat - any inboard or outboard open water craft, open or cabin type.

Numbered as separate section 1971
Renumbered 1973

10. The term accessory use in this section shall not include:
(A) Garage space for or storage of more than two automobiles, unless authorized by the Selectmen.

Moved to 12 and renumbered 1973

(B) No sign shall be of the neon type or gas illuminated tube type.

Moved to 12, rewritten and renumbered 1973

(C) Signs, except in a business district, one sign may be allowed pertaining to the lease, sale or use of a lot or building on which placed and not exceeding a total area of six square feet; in a residential district, signs may be allowed on a lot occupied by a dwelling, but there shall not be allowed more than one sign of six square feet pertaining to the use thereof or bearing the name or occupation of any occupant or occupants.

A real estate development in a residential area will be permitted the same sign sizes as allowed in a business area as long as active building and selling is taking place. Such signs must be removed within 30 days after such activities cease.

Deleted and substituted 1971 - old

(D) Tents or trailers.

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- Renumbered 1973 - new (B) Mobile homes. For the purposes of this By-Law, a mobile home shall be defined as any vehicle or object designed for movement on wheels and having no motive power of its own, but which is drawn by or used in connection with a motor vehicle, and which is so designed and constructed, or reconstructed or added to by means of such accessories, as to permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks or other foundation, and shall include the type of construction commonly known as a mobile home, having a body width exceeding eight feet and a body length exceeding thirty-two feet.
- Renumbered 1973 11. Any of the following uses on approval of the Board of Appeals:
 (A) Aviation field;
 (B) Cemetery;
 (C) Greenhouse or nursery;
 (D) Hospital, sanitorium, institution of philanthropic use;
 (E) Municipal use;
 (F) Hotel, club, or boys' or girls' camps or a guest house taking five or more people or motel;
 (G) Tea-room in a building existing at a time this By-Law takes effect, providing the building is not enlarged or substantially altered in appearance, and no signs exceeding a total area of four square feet are displayed;
 (H) Telephone exchange, not including a service station or outside storage of supplies;
 (I) Boat building and storage;
 (J) Municipal recreational use;
 (K) Gravel or sand pit;
 (L) Private club not conducted for profit;
- Moved (6A) and rewritten 1973 (M) Professional uses that are in conjunction with residence uses providing that it will not substantially change the use of the dwelling as a residence;
- Deleted 1971
 (substituted by Highway Commercial section) 9. *In those districts now designated as residence districts, on Route 28 from the Hyannis-Yarmouth line to Bass River, any uses permitted in a business district with the approval of the Board of Appeals by*

way of a special permit as provided in Section 30, Chapter 40, of General Laws, and the said Board of Appeals is hereby authorized and empowered to hear and decide requests for special permits under this Section, as provided by said Statute, hereinbefore mentioned.

Moved and rewritten 1973

12. Signs.

(A) No sign shall be of the neon type or gas illuminated tube type.
 (B) One sign may be allowed pertaining to the lease, sale or use of a lot or building on which placed and not exceeding a total area of six square feet; in a residential district, signs may be allowed on a lot occupied by a dwelling, but there shall not be allowed more than one sign of six square feet pertaining to the use thereof or bearing the name or occupation of any occupant or occupants.

A real estate development in a residential area will be permitted the same signs sizes as allowed in a business area as long as active building and selling is taking place. Such signs must be removed within 30 days after such activities cease.

Renumbered and title changed 1973

- old

SECTION III. BUSINESS DISTRICT USES

- new

SECTION 18.03. BUSINESS DISTRICT AND USES

In a business district no building or premises shall be erected, altered or used for any purpose injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration, or noise or other cause or for any purpose except:

1. Any use permitted in a residential (*residence*) district.

Moved to 8 and renumbered 1973

1A. *Signs shall be permitted in a business district in accordance with the following provisions:*

1. *Signs herein shall mean all advertising devices or insignia whether lettered or not, designed to promote a business, the sale of a product or a service.*
2. *The area of a sign or other advertising device shall be determined by the multiplication of the extreme width and the extreme height, including borderd and without deductions for open space or other*

irregularities.

3. *Supporting posts, pillars or arms of other than accepted sizes or design shall require the approval of the Building Inspector. All signs on the premises shall be kept in good condition, properly painted and presenting a good appearance in keeping with the area where located.*
4. *Illuminated signs shall not have any glare distracting to drivers nor shall there be any exposed neon or gas-tube filled signs or illumination in colors that will conflict with the ability to readily see traffic lights or cause any hazardous condition therefrom.*

2A. Size.

There shall be but one double faced sign of not over 12 square feet within 15 feet of the highway boundary. If said sign is located between 15 and 18 feet from the road boundary it may be 15 square feet in area, and if located more than 18 feet from the road boundary, it may contain not over 21 square feet in area with the upper and lower edges to be determined by the contour of the ground and with the approval of the Building Inspector.

Major attractions and unusual establishments shall be given consideration as to sign design and sizes with the joint consideration of the owner and/or architect involved, the Selectmen and Building Inspector. The plans for all buildings to include location and sizes of all signs and to be considered before the permit is issued.

3A. Single faced signs.

Single faced signs parallel to the highway and not in contact with a building will be allowed 33 1/3% over the previous limits, the height and location of all signs shall be approved by the Building Inspector.

Signs on buildings may be of the same size as permitted single faced signs, but with the exception of cut-out letters, they may not be painted or posted on the surface of any building without an intermediary removable surface.

Signs on buildings may be of a size in proportion to the size of the building so that they will be in keeping with said building from an architectural standpoint with no definite size restrictions, but to be approved by the Building Inspector and subject to review of the Appeal

Board.

Cut-out letters must be kept within sizes proportioned to the area on which used.

No signs advertising "off the premises" products, services, entertainment or anything detracting from the appearance of the neighborhood shall be painted or affixed to a rock or tree.

National emblems: There shall be no more than two so called National emblems of not more than a total of 1000 square inches and not more than 600 square inches for any one such emblem.

There shall be no more than one "Accessory" sign and this shall not exceed three square feet in area.

No sign or other advertising device shall be permitted within the Town limits that, in the opinion of the Selectmen and/or the Building Inspector having regard for the health and safety of the public, the danger of fire or in consideration of the general atmosphere of the area would be considered detracting or a hazard.

Signs on Town Ways erected as a public convenience will be limited to so called "Community" displays and shall require a permit issued by the Building Inspector. These will be limited to a standard size and lettering, and will be maintained by a person or persons designated by the Board of Selectmen.

Gasoline stations and garages will be allowed the standard permanent oil company sign in addition to name sign, plus the customary lubrication washing and service signs displayed in the positions to which they apply and one A-frame or easel type sign, and so called special signs will be permitted on sides or heads of gasoline pumps only. Promotional signs and material, with the exception of banners and whirligigs, supplied by gasoline or tire companies to promote a new product or sales, may be displayed for a period of thirty days upon notice to the Building Inspector.

2. Filling station, garage, or stable on approval of the Selectmen.
3. Municipal use.
4. Office or bank.
5. Place of amusement or assembly on approval of Board of Appeals.

Deleted 1973 (substituted by subsection 9A)

Renumbered 1973

5. Retail business, service or public utility not involved in manufacture on the premises except for products the major portion of which are to be sold at retail by the manufacturer to the customer, and provided further that not more than four operatives shall be employed in such manufacture.
6. Hotel, club, boys' or girls' camps, a guest house taking five or more people, or motel.
7. Private club not conducted for profit.

Deleted 1973 (substituted by subsection 9B)

In a business district no building or premises shall be used, erected, or altered for the purpose of maintaining a trailer park, so-called, except on approval of the Board of Appeals, by the way of a special permit, as provided in Section II, Paragraph 9, and then only when in the judgement of the Board of Appeals that such approval or permit will tend to improve the status of the neighborhood and where the non-granting of such permit of the same would impose a hardship upon the owner or user of said land.

Moved from 1A, 2A, 3A and renumbered 1973

8. Signs. Signs shall be permitted in a business district in accordance with the following provisions:
 - (A) Signs herein shall mean all advertising devices or insignia whether lettered or not, designed to promote a business, the sale of a product or of a service.
 - (B) The area of a sign or other advertising device shall be determined by the multiplication of the extreme width and the extreme height, including borders and without deductions for open space or other irregularities.
 - (C) Supporting posts, pillars or arms of other than accepted sizes or design shall require the approval of the Building Inspector. All signs on the premises shall be kept in good condition, properly painted and presenting a good appearance in keeping with the area where located.
 - (D) Illuminated signs shall not have any glare distracting to drivers nor shall there be any exposed neon or gas-tube filled signs or illumination in color that will conflict with the ability to readily see traffic lights or cause any hazardous condition therefrom.
 - (E) There shall be but one double faced sign of not over 12 square

feet within 15 feet of the highway boundary. If said sign is located between 15 and 18 feet from the road boundary it may be 15 square feet in area, and if located more than 18 feet from the road boundary, it may contain not over 21 square feet in area with the upper and lower edges to be determined by the contour of the ground and with the approval of the Building Inspector.

(F) Major attractions and unusual establishments shall be given consideration as to sign design and sizes with the joint consideration of the owner and/or architect involved, the Selectmen and Building Inspector. The plans for all buildings to include location and sizes of all signs and to be considered before the permit is issued.

(G) Single faced signs parallel to the highway and not in contact with a building will be allowed 33 1/3% over the previous limits, the height and location of all signs shall be approved by the Building Inspector.

(H) Signs on buildings may be of the same size as permitted single faced signs, but with the exception of cut-out letters, they may not be painted or posted on the surface of any building without an intermediary removable surface.

(I) Signs on buildings may be of a size in proportion to the size of the building so that they will be in keeping with said building from an architectural standpoint with no definite size restrictions but to be approved by the Building Inspector and subject to review of the Appeal Board.

(J) Cut-out letters must be kept within sizes proportioned to the area on which used.

(K) No signs advertising "off the premises" products, services, entertainment or anything detracting from the appearance of the neighborhood shall be painted or affixed to a rock or tree.

(L) National Emblems: There shall be not more than two so-called "National" emblems of not more than a total of 1000 square inches and not more than 600 square inches for any one such emblem.

(M) There shall be no more than one "Accessory" sign and this shall not exceed 3 square feet in area.

(N) No sign or other advertising device shall be permitted within the Town limits, that, in the opinion of the Selectment and/or the

Building Inspector having regard for the health and safety of the public, the danger of fire or in consideration of the general atmosphere of the area would be considered detracting or a hazard.

(O) Signs on Town Ways erected as a public convenience will be limited to so-called "Community" displays and shall require a permit to be issued by the Building Inspector. These will be limited to a standard size and lettering, and will be maintained by a person or persons designated by the Board of Selectmen.

(P) Gasoline stations and garages will be allowed the standard permanent oil company sign in addition to name sign, plus the customary lubrication washing and service signs displayed in the positions to which they apply and one A-frame or easel type sign, and so-called special signs will be permitted on sides or heads of gasoline pumps only. Promotional signs and material, with the exception of banners and whirligigs, supplied by gasoline or tire companies to promote a new product or sales, may be displayed for a period of 30 days upon notice to the Building Inspector.

Added 1973 (replaces former subsection 5 and final unnumbered paragraph)

- 9. The following uses, but only on approval of the Board of Appeals by way of a Special Permit:
 - (A) Place of amusement or assembly.
 - (B) Trailer Park, so-called, and then only when in the judgement of the Board of Appeals such permit will tend to improve the status of the neighborhood, and the non-granting of such permit would impose hardship upon the owner of the land.

Added 1975

- 10. No mobile structure shall be occupied for commercial, industrial, or other non-residential use except as a temporary construction office or for temporary construction materials or equipment storage for the premises on which it is located upon issuance of a permit by the Building Inspector.

Section added 1971, renumbered and renamed 1973 - old

SECTION IIIA. HIGHWAY COMMERCIAL

- new

SECTION 18.04. HIGHWAY COMMERCIAL DISTRICT AND USES

Phrase changed 1973

1. The land abutting the State Highway (Route 28) from the Hyannis-Yarmouth line to Bass River shall be designated as "Highway Commercial" to the existing rear boundary lot line as of June 24, 1971 (*the date of acceptance of this ordinance*), not to exceed however, 1200 feet in depth, and said rear lot line shall not be extended by the acquisition of additional property.

Added 1973

The rear boundary lot line for purposes of district definition is defined as that boundary line of a lot shown on a plan of land recorded with the Barnstable County Registry of Deeds or Land Registration Office or described by deed, which is opposite the street line of Route 28.

2. For the purposes of this By-Law, existing and future uses of land, buildings and other structures shall be allocated among the following. It is the intent that every possible use be included, and a use that does not readily fall into any category shall be included in the one to which it is most similar:

A. Allowed uses:

(1) Retail stores for the sale of merchandise where the bulk of display and sales are conducted within a building.

(2) Banks, business offices, professional offices and personal service establishments, including but not limited to, barber or beauty shops, photographer's studios, laundries, dry cleaning or tailoring shops, shoe repair shops, self-service dry cleaners or laundries.

(3) Government, civic, religious, education or public service use.

(4) Gasoline filling stations containing not more than 3 bays for repair, service and/or maintenance of vehicles.

(5) Hotels and (*and/or*) motels, which shall meet the regulations set forth in Section 18.06 (*IWA*) of this By-Law, except as specifically set forth in Paragraphs 3 and 4 of this Section.

(6) Business establishments allowed under this Section, either separately or commonly owned, grouped in a shopping center, providing the building containing said establishments meets all requirements of this By-Law.

(7) Restaurants and other eating places for serving food or beverages to persons inside or outside the building.

Wording changed 1973

-
- (8) Undertaking and funeral establishments.
 - (9) One family dwellings.
 - (10) Combined business - residences.
 - (11) Accessory uses customarily incidental to a permitted main use, providing such accessory use is not detrimental or dangerous.
 - (12) When there is a possibility that the surrounding neighborhood may be affected by reason of possible dust, odor, noise, vibration or threat of danger by any of the aforesaid uses, the Board of Appeals shall hold a public hearing prior to said use, and if the public health and safety would not be adversely affected by said use, the Board of Appeals shall grant a special permit for the same.

B. Prohibited Uses:

- (1) Manufacturing establishment, including assembly, fabrication, processing and reprocessing of materials.
- (2) Warehouses, storage or wholesaling establishments.
- (3) Heavy motorized equipment repair or dismantling and/or storage of nonoperative motor vehicles or material or equipment held for discard.
- (4) Truck terminals, truck freight yards or freight terminals.
- (5) Open or outside storage of new or used materials or building equipment, including bulk materials, other than that included as a permitted use in accessory outside storage.
- (6) Sale, rental or storage of mobile homes, trucks, trailers, tractors, bulldozers or similar heavy equipment.
- (7) Private or commercial airfield.
- (8) Billboards.

C. Uses Upon Approval of the Board of Appeals:

- (1) Outdoor recreation or amusement.
- (2) Open Space Village (*Apartment Building*).
- (3) Hospital or nursing home.
- (4) Public utility.
- (5) Water supply use.
- (6) Repair shop for household appliances, radio and television sets or office equipment.
- (7) Farm or fish stand.
- (8) Veterinary establishment or place for boarding animals

Changed 1973

(9) Automatic car wash.

(10) Hall, club, theater, place of public assembly, bowling alley, dance hall or other indoor commercial amusement or assembly use, or public transportation depot.

(11) Any use which can not be included in or is dissimilar from the approved uses and not prohibited in Paragraph B above.

3. Dimensional Regulations.

(A) Minimum frontage on Route 28 -- 125 feet for a depth of 100 feet.

(B) Minimum square footage -- 12500 feet.

(C) A lot or parcel of land having an area or a frontage of lesser amounts than required as aforesaid may be considered as coming within the area and frontage requirements of this section, providing such lot or parcel of land was shown on a plan or described in a deed duly recorded with the Barnstable County Registry of Deeds or Land Registration Office at the time of the adoption of this By-Law and did not at the time of such adoption adjoin other land of the same owner available for use in connection with such lot or parcel. If there is a contiguous open lot (or lots) under the same ownership bounded in a deed or shown on a plan duly recorded with the Barnstable County Registry of Deeds or Land Registration Office prior to the adoption of this By-Law, and not to be used for residential purposes, the Board of Appeals (after due notice and public hearing) shall require that such lots be merged, so as to provide the maximum possible area up to 8500 square feet per new lot thus created; except that if the total combined area of such contiguous open lots under one ownership is not more than 8500 square feet, the Board of Appeals may permit the creation of, and issuance of building permits for, a total number of lots less than 8500 square feet equal to the number of 8500 square foot lots, plus one, that could be laid out within the entire tract under one ownership. As used in this section, the word "contiguous" shall be interpreted to mean having a common boundary equal in length to at least one half the total length of the longer boundary adjoining.

4. Building Placement and Requirements:

- (A) Minimum front yard setback -- 30 feet.
- (B) Minimum side yard setbacks:
 1. Corner lots -- 30 feet;
 2. All other lots -- 25 feet.
- (C) Minimum rear yard setback -- 30 feet.

Added 1974

- (D) Maximum building coverage -- 50% of lot area.

Deleted 1975 (substituted by new sub-section 5)

5. *Any yard space or area required to be kept open and unbuilt upon on any lot may nevertheless be used for off-street automobile parking, if otherwise lawful, except that a strip not less than 10 feet wide shall be landscaped appropriately and maintained in a sightly condition, open and unbuilt on, unpaved and not parked on, all along the front rear and side lot lines, and shall not be crossed, except by a 5 foot wide sidewalk and a maximum 24 foot driveway as a means of access from the street to the lot for each 125 feet of frontage, except where additional width may be approved by the Commonwealth of Massachusetts Rules and Regulations for Entrance to State Highways.*

Rewritten 1975

5. Any yard, space or area required to be kept open and unbuilt upon on any lot may nevertheless be used for off-street automobile parking in accordance with the requirements of Section 18.11.

6. Signs allowed in this district are the same as those allowed in a business district.

Deleted 1975 (substituted by Section 18.11)

7. *Parking -- off-street parking spaces, not less than 10 feet by 20 feet per vehicle with an area of not less than 200 square feet per vehicle excluding the portion of driveway to each such parking space, not to be located within 5 feet of any lot line, shall be provided on the same lot within a radius of 200 feet for the following uses.*

(A) *Places of public assembly, including school and church auditoriums, libraries, museums, clubs, theaters, bowling alleys and other amusements, undertaking establishments, trade schools and bus depots -- one parking space for each 4 seats, or where benches are used, one space for each 8 lineal feet of bench. Where no fixed seats are used, for each 50 square feet of public floor area there*

shall be one parking space.

(B) Retail stores and similar business establishments (with adequate off-street loading and receiving areas), personal service shops, banks, and other financial offices -- one parking space for each 200 square feet of gross floor area, exclusive of storage space, on all floors.

(C) Offices -- one parking space for each 200 square feet of gross floor area, exclusive of storage space, on the ground floor, plus one additional space for each 400 square feet of gross floor area, exclusive of storage space, on all other floors.

(D) Restaurants or establishments licensed as a common victualer or businesses purveying food ready to be consumed on or off the premises -- one parking space for each 4 seats and/or 10 parking spaces for each service station or person dispensing food, whichever is greater.

(E) Hospitals and nursing homes -- one parking space for each sleeping room for single or double occupancy, or, where not divided into such rooms (wards), one parking space for each two beds.

(F) For all other permitted or authorized uses, including veterinary establishments, day nurseries, farm stands, sport grounds, drive-ins, gasoline filling stations, or places of building trades -- adequate parking spaces to accommodate under all normal conditions, the cars of occupants, employees, members, customers, clients and visitors to the premises.

Added 1975

8. No mobile structure shall be occupied for commercial, industrial, or other non-residential use except as a temporary construction office or for temporary construction materials or equipment storage for the premises on which it is located upon issuance of a permit by the Building Inspector.

Deleted 1971 (substituted by new Section IV)

SECTION IV. INDUSTRIAL DISTRICT USES

In an industrial district no building or premises shall be erected, altered or used for any purpose injurious, noxious, or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration, or noise or other cause.

1. Any use permitted in a residence or business district.
2. Any manufacturing, processing or assembling use, the motive power being electricity or other unobjectionable motive power.

New section substituted for above
1971

SECTION IV. INDUSTRIAL DISTRICTS

Renumbered and renamed 1973

SECTION 18.05. INDUSTRIAL DISTRICT AND USES

Added 1973

1. In addition to other Industrial Zones shown on the Zoning Map, Town of Yarmouth, December 26, 1972, the following shall be designated as "Industrial".

The land bounded on the North by Route 6; on the West by Willow Street; on the South by the Cape & Vineyard Hyannis-Harwich Electric Transmission Line; on the East by a line parallel to and 200 feet westerly from the westerly sideline of West Yarmouth Road; on the South by a line formed by the westerly extension of the southerly sideline of Old Town House Road, and by Old Town House Road and by the Cape & Vineyard Hyannis-Harwich Electric Transmission Line; on the East by the Town of Yarmouth Wellfield; on the South by the Town of Yarmouth Wellfield; on the East by the westerly line of land shown on Land Court Plan 30101A; On the South by the northerly sideline of land shown on Land Court Plan 30101A; on the East by the westerly sideline of North Main Street;

Deleted and substituted 1973 - old

excluding the Business Zone shown as Area 26 on the Town of Yarmouth Zoning Map dated May 23, 1958, shall be designated as "Industrial".

- new

excluding the Business Zone shown as Area 25 and the Residential Zone shown as Area 26 on said December 26, 1972 Zoning Map.

2. For the purposes of this By-Law, existing and future uses of land, buildings and other structures shall be allocated among the following:

A. Allowed uses:

- (1) Warehouse or other enclosed building for the storage, distri-

bution, or wholesale marketing of materials, merchandise, products or equipment, provided that such use is not hazardous by reason of potential fire, explosion, or radiation, nor injurious or detrimental to the neighborhood by reason of dust, odor, fumes, wastes, noise, vibration or other noxious or objectionable features.

(2) Lumber yard, fuel storage plant, truck terminal, train terminal, contractor's yard, used car lot or other open-air establishment for the storage, distribution or sale at wholesale or retail, of materials (but not including salvage materials) merchandise, products or equipment provided that all operations shall be such as to confine to the premises disturbing dust, noise or other objectionable effects, and provided further that such use is not hazardous by reason of potential fire, explosion or radiation.

(3) Research or testing laboratory, printing or publishing plant, bottling works, manufacturing establishment or other lawful assembling, packaging, finishing, or processing use, provided that all operations shall be such as to confine disturbing smoke, fumes, dust and noise to the premises, and provided further that no operation shall constitute a hazard by reason of potential fire, explosion or radiation.

(4) Establishment for the repair of motor vehicles, boats or landscaping implements and gasoline stations, provided that the making of all but minor repairs be conducted wholly within a building sufficiently sound-insulated to confine disturbing noise to the premises.

(5) Shop of a household appliance, radio, television set, office equipment and bicycle repairman, printer, blacksmith, builder, carpenter, caterer, electrician, lawnmower serviceman, mason, painter, plumber, or roofer or related tradesmen, provided that all work and storage shall be conducted within a building sufficiently sound-insulated to confine disturbing noise to the premises.

(6) Auction gallery for exhibitions and sales.

(7) Government, civic, religious, education or public service use.

(8) All related accessory uses customarily incidental to the above permitted uses.

(9) Retail stores only upon approval of the Board of Appeals as a Special Permit.

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- Changed 1973
- B. Prohibited Uses:
- (1) Hotels and (*and/or*) motels.
 - (2) Apartments.
 - (3) One or two family dwellings.
 - (4) Private or commercial airfields.
 - (5) Billboards.
 - (6) Junkyards and storage and/or sale of salvage materials.
 - (7) Trailer parks.
 - (8) Any use which is excessively obnoxious hazardous or injurious to the neighborhood or to property in the vicinity.
- Added 1975
- C. Other uses:
- Any use not listed in either Subsection A or Subsection B above shall be allowed in an industrial district upon approval of a Special Permit granted by the Board of Appeals.
3. Wherever an industrial district adjoins a residential district after the adoption of this paragraph, no building or part thereof designated or used for business or industrial purposes shall be placed within 50 feet of the district boundary.
4. Wherever any industrial district adjoins a residential district and has a main frontage on one street, that street shall be used for the frontage and for all receiving and delivering of goods.
5. Dimensional regulations:
- Deleted and substituted 1974 - old
- (A) *Minimum frontage -- 100 feet for a depth of 50 feet.*
- new
- (A) The minimum lot frontage* shall be 100 feet. This may be reduced to 80 feet if the lot is at least 100 feet wide 25 feet back from the street line.
- * "Lot frontage" here and elsewhere in this By-Law means that portion of a lot fronting upon and having rights of access to a way providing legally sufficient frontage for the division of land under the requirements of G.L. (Ter. Ed.) CH.41 Sec.81L. To be measured continuously along a single street line.

(B) Minimum square footage -- 15,000 square feet.

(C) A lot or parcel of land having an area or a frontage of lesser amounts than required as aforesaid may be considered as coming within the area and frontage requirements of this Section, provided such lot or parcel of land was shown on a plan or described in a deed duly recorded with the Barnstable County Registry of Deeds or Land Registration Office at the time of the adoption of this By-Law and did not at the time of such adoption adjoin other land of the same owner available for use in connection with such lot or parcel. If there is a contiguous open lot (or lots) under the same ownership bounded in a deed or shown on a plan duly recorded with the Barnstable County Registry of Deeds or Land Registration Office prior to the adoption of this By-Law, the Board of Appeals (after due notice and public hearing) shall require that such lots be merged, so as to provide the maximum possible area up to 8,500 square feet per new lot thus created; except that if the total combined area of such contiguous open lots under one ownership is not more than 8,500 square feet, the Board of Appeals may permit the creation of, and issuance of building permits for, a total number of lots less than 8,500 square feet equal to the number of 8,500 square foot lots, plus one, that could be laid out within the entire tract under one ownership. As used in this Section, the word 'contiguous' shall be interpreted to mean having a common boundary equal in length to at least one-half the total length of the longer boundary adjoining.

6. Building Placement and Requirements:

(A) Minimum front yard setbacks -- 30 feet, except for lots abutting Old Town House Road, which said lots shall have a setback of 70 feet from said Old Town House Road.

(B) Minimum side yard setbacks -- 10 feet, except for corner lots, which shall have side yard setbacks of 30 feet.

(C) Minimum rear yard setback -- 20 feet.

(D) No building shall cover more than 35 percent of the gross land area of the lot on which it is located.

Deleted and substituted 1975 - old 7. *Any yard space or area required to be kept open and unbuilt upon on*

any lot may nevertheless be used for off-street automobile parking, if otherwise lawful, except that a strip not less than 15 feet wide shall be landscaped appropriately and maintained in a sightly condition, open and unbuilt on, unpaved and not parked on, all along the street and district boundary lines, and shall not be crossed, except by a 5 foot wide sidewalk and/or either two 10 foot driveways or one 20 foot driveway as a means of access from the street to the lot.

- new 7. Any yard space or area required to be kept open and unbuilt upon on any lot may nevertheless be used for off-street automobile parking in accordance with the requirements of Section 18.11.

8. Signs allowed in this district are the same as those allowed in a business district.

Deleted 1975 (substituted by Section 18.11)

9. *Parking -- Off-street parking spaces, not less than 10 feet by 20 feet per vehicle with an area of not less than 200 square feet per vehicle, excluding the portion of driveway for each such parking space, not to be located within 5 feet of any lot line, shall be provided on the same lot or another lot within a distance of 200 feet within said industrial district (radius of 200 feet) for the following uses:*

Changed 1973

(A) Places of public assembly -- 1 parking space for each 4 seats, or where benches are used, 1 space for each 8 linear feet of bench, or where no fixed seats are used, for each 80 square feet of public floor area, there shall be 1 parking space.

(B) Warehouse or other enclosed building for storage, distribution or wholesale marketing, etc -- 1 space for each 2 employees, and 1 permanent off-street loading space of not less than 10 feet in width, 30 feet in length and 14 feet in vertical clearance; and 1 additional loading space of the same size for each additional 5,000 square feet of floor area or portion thereof, excluding basements.

(C) For all other permitted or authorized uses, including open-lot sales or storage yards, places of building trades, gasoline filling stations, and all other commercial uses -- adequate parking spaces to accommodate under all normal conditions the cars of occupants, employees, customers, clients and visitors to the premises.

Added 1975

9. No mobile structure shall be occupied for commercial, industrial, or other non-residential use except as a temporary construction office or for temporary construction materials or equipment storage for the premises on which it is located upon issuance of a permit by the Building Inspector.

Section added 1973

SECTION 18.05A. WETLANDS CONSERVANCY DISTRICT

1. General. This Section does not grant any property rights; it does not authorize any person to trespass, infringe upon, or injure the property of another; it does not excuse any person of the necessity of complying with other sections of this By-Law or other applicable laws, regulations or by-laws.

2. Purpose. Conservancy districts are intended to preserve, protect and maintain the ground water supply on which the inhabitants depend for water; to protect the purity of coastal and inland waters for the propagation of fish and shellfish and for recreational purposes; to provide for the continued functioning of the wetland as a natural system; to protect the public health and safety; to protect persons and property from the hazards of flood and tidal waters which may result from unsuitable development in swamps, ponds, bogs, or marshes along water courses or in areas subject to floods and extreme high tides; to preserve the amenities of the Town and to conserve natural conditions, wildlife and open space for the education and general welfare of the public.

3. Permitted Uses. Except as provided in Sections 4 and 5 below, buildings, structures and premises in Conservancy Districts may be used only for the following purposes:

(A) Fishing and shellfishing, including the raising and cultivation of fish and shellfish.

(B) Forestry, grazing and farming, nurseries, truck gardening and harvesting of crops including but not limited to such crops as cranberries, marsh hay, sea weed, berries and shrub fruits and trees, and work incidental thereto.

(C) Conservation of soil, water, plants and wildlife.

(D) Outdoor activities including hiking, swimming, boating, nature study, fishing trapping and hunting.

(E) Drainage works which are part of local flood and mosquito control conducted by an authorized public agency.

(F) Uses accessory to residential or other primary uses, such as flower or vegetable gardens, lawns, pastures or forestry areas.

4. Uses Permitted by Exception.

(A) Upon issuance of a special permit by the Board of Appeals, and subject to such special conditions and safeguards as the Board of Appeals deems necessary to fulfill the purposes of Section 2, the following uses and structures are permitted.

(1) Non-residential buildings or structures to be used only in conjunction with fishing, shellfishing, the growing harvesting and storage of crops raised on the premises, and boathouses.

(2) Dams, changes in water courses or other drainage works only as part of an overall drainage plan constructed or authorized by a public agency except as stated in 3(E) above.

(3) The superficial clearing of areas of private beach and the filling or replenishment thereof in conformity with the provisions of Chapters 782 and 784, Acts of 1972 and Chapter 91 of the General Laws.

(4) Fabricated walks or trails, docks and landings for private use.

(B) The Board of Appeals may grant the above stated special uses provided that:

Deleted and substituted 1974 - old

(1) An application including a detailed plan is submitted to the Board.

- new

(1) Four copies of an application including a detailed plan are submitted to the Board. Said plan shall indicate location of proposed and existing structures, the distinction between the wetland and upland, the elevations of land contours at 2 foot intervals, referred to mean sea level datum.

Deleted and substituted 1974 - old

(2) The application has been referred to the Planning Board, Board of Health, and the Conservation Commission and reported upon by all three Boards or thirty days shall have elapsed following referral without receipt of such reports.

- new

(2) Copies of the application have been transmitted by the Board of Appeals to the Planning Board, Board of Health, and the Conservation Commission within seven days of their receipt by the Board of Appeals, and reported upon by all three Boards or thirty days shall have elapsed following such referral without receipt of such reports. Approval by the Board of Appeals shall be made contingent upon approval of on-site sewage disposal or water supply systems by the Yarmouth Board of Health or the Massachusetts Department of Public Health, if having jurisdiction.

(3) Any said non-residential building shall not exceed 1,000 square feet in total ground coverage.

(4) Any said non-residential building shall conform to the setback and side line requirements of the underlying zoning district, and provided that any such non-residential building or structure shall be designed, placed and constructed to offer a minimum obstruction to the flow of water.

5. Locations Exempted by Exception. If any land in the Conservancy District is proven to the satisfaction of the Board of Appeals:

(A) After the question has been referred to and reported on by the Planning Board, Board of Health and the Conservation Commission, or thirty days have elapsed since such referral, and,

(B) After Soil Survey data, percolation tests taken between and including the months of February through May, and plan showing elevation of land contours at 2 foot intervals, referred to mean sea level datum have been submitted and certified by a Registered Professional Engineer and or Land Surveyor, as being in fact not subject to flooding, or not suitable because of drainage provisions of this Section, and

(C) That the use of such land will not interfere with the purpose for which the Conservancy District has been established, and

(D) Will not be detrimental to the public safety and/or welfare, the Board of Appeals may, after a public hearing with required notice, issue a special permit for any use, otherwise permitted at that location under the Zoning By-Law, in which case all other zoning provisions applicable to such land use shall apply.

6. Board of Appeals Criteria. Wherever in this Section the Board of Appeals is authorized to issue a special permit for an exception, said Board shall assure to a degree consistent with a reasonable use of the location that said use:

(A) Does not produce unsuitable development in marshes, bogs, ponds, or along water courses or in areas subject to flooding;

(B) Facilitates the adequate protection and provision of a water supply;

(C) Protects and preserves the inland marshes, bogs, ponds, and water courses and their adjoining wetlands in order to safeguard the purity of inland and coastal waters for the propagation and protection of aquatic life and for recreational purposes.

7. Prohibited Uses. Except as provided in Sections 3, 4 and 5 of this protective By-Law, within the Wetlands Conservancy District,

(A) No person shall fill, place or dump any soil, loam, peat, sand, gravel, rock or other mineral substance, refuse, trash, rubbish or debris.

(B) No person shall drain or excavate or dredge land or wetlands or remove therefrom loam, peat, sand, gravel, or other mineral substances.

(C) No person shall perform any act or use any land or wetlands in a manner which would destroy the natural vegetation, substantially alter existing patterns of water flow or otherwise alter or permit the alteration of the natural and beneficial character of the land or wetland.

(D) No person shall cause by any means any sewage or any effluent contaminated by sewage to enter or flow into any wetlands, whether the same be by surface or sub-surface action or seepage or otherwise. 'Wetlands' in this Section shall mean areas comprising poorly drained or plastic soils such as clays, muck, peat or bog in

which depth to water table is 6 inches or less during the period between February and May.

(E) Any and all sewage disposal systems, storage areas, or tanks for chemical or petroleum products or other potential sources of substantial pollution shall not be located within 75 horizontal feet of any conservancy district.

(F) No buildings or structures shall be erected.

8. Building Permits. Whenever an application is made for a building permit which involves the use of land in a Conservancy District, the Building Inspector shall require the applicant for such permit to provide as part of such application:

(A) A plan, drawn by a Registered Land Surveyor, of the lot on which such building is intended to be built. Said plan to show:

- (1) Proposed building and sewage disposal locations,
- (2) Elevations of the land contours, at 2 foot intervals, referred to mean sea level datum, and
- (3) Location of percolation tests taken between and including the months of February through May, and
- (4) Soil Survey data certified by a Registered Professional Engineer.

(B) Each application to include all the following prior to issuance of a building permit:

- (1) The written approval of the Board of Health.
- (2) A written recommendation by the Conservation Commission.
- (3) A copy of the special permit granted by the Board of Appeals, prior to issuance of a building permit.

Section added 1965 renumbered 1973 *SECTION IVA. MOTELS*

SECTION 18.06. MOTELS

In addition to other provisions governing motels herein, the following provisions shall also apply to the use of motels wherever provided for in this By-Law.

- (1) For each lot upon which a lot is to be erected, there shall be a minimum frontage of 125 feet and a minimum of 2,500 square feet of

lot area for the first 10 motel units. For each motel unit in excess of 10 motel units, there shall be provided an additional 250 square feet of lot area.

(2) No motel or addition to a motel shall be erected or placed on a lot which will result in the covering by all buildings of more than 35 percent of the lot.

(3) The maximum height of any motel building shall be not more than 2 stories.

Deleted 1975

(4) In addition to one off-street parking space for each motel unit, there shall be two additional spaces for each 10 motel units or fraction thereof.

(4) For each lot upon which a motel is erected there shall be provided a front yard or setback distance of not less than 30 feet; a side yard on each side of not less than 15 feet; and a rear yard of not less than 15 feet. No other uses are permitted in these yard areas except that of a driveway in the front yard. All yard areas shall be appropriately landscaped and adequately maintained.

Deleted and substituted 1975 - old

(5) A site plan for each proposed motel shall be submitted to the Building Inspector with the request for a building permit. Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and other open uses, all facilities for sewage refuse and other waste disposal, and for surface water drainage, and all landscape features (such as fences, walls, planting areas and walks) on the lot.

- new

(5) A site plan for each motel shall be prepared and submitted in accordance with the requirements of Section 18.10.

Section added 1970 renumbered 1973

PARAGRAPH IVB. APARTMENTS

Section deleted 1973 (substituted by Open Space Village Development Section)

SECTION 18.07. APARTMENTS

In residential or business districts (excepting that area comprising

that of the Yarmouth Historic District) complexes consisting of one or more free standing apartment buildings, each consisting of three or more dwelling units may be authorized by the Board of Appeals as a special exception in accordance with the following regulations and requirements:

Deleted and substituted 1972 - old

(1) Apartment building lot sizes shall vary in proportion to the number of apartments proposed. No apartment complex shall be erected except on a lot containing not less than 90,000 square feet area, for the first 10 apartment units in such buildings, and for each additional apartment unit there shall be provided not less than an additional 5,000 square feet gross land area.

- new

(1) Lot area for the first 10 apartment units shall equal at least 90,000 square feet, and shall be increased above that by at least 7,500 square feet for each apartment unit in excess of 10 on the premises. No apartment building shall contain more than 24 apartment units.

(2) On each lot there shall be provided yard depth not smaller than the following:
Front yard -- 50 feet; each side yard -- 50 feet; rear yard -- 50 feet.

Deleted and substituted 1972 - old

(3) No building or complex of buildings shall cover more than 25 percent of the gross land area of the lot on which it is located.

- new

(3) No building or complex of buildings shall cover more than 12 percent of the gross land area of the lot on which it is located.

(4) Any yard space or area required to be kept open and unbuilt upon on any lot may nevertheless be used for off-street automobile parking, if otherwise lawful, except that a strip not less than 25 feet wide on which to grow grass, bushes, flowers or trees shall be maintained open and unbuilt on, unpaved and not parked on, all along the front, rear, and side lot lines, except for entrance and exit driveways and except along the water boundaries.

(5) On each lot there shall be provided for each 2 apartment units not less than 3 stabilized and readily accessible off-street automobile parking spaces. Each such space shall not be less than 10 feet wide and shall cover not less than 200 square feet gross area excluding the portion of driveway to each such parking space.

Deleted and substituted 1972 - old

(6) Each application form when submitted for a special exception hereunder shall be accompanied by 3 copies of the proposed site plan which plan shall show all existing and proposed buildings and structures, all driveways, service areas, parking spaces, driveway openings, open spaces, and all facilities for sewage, refuse and other waste disposal, and all landscape features (such as fences, walls, planting areas and walks) and all such other data and dimensions as are necessary to make a determination under the above requirements.

- new

(6) Each application form when submitted for a special exception hereunder shall be accompanied by 3 copies of a proposed site plan prepared by a Registered Architect, Landscape Architect, Registered Land Surveyor or Engineer, showing boundaries of the lot, existing and proposed buildings, existing and proposed water bodies, existing and proposed topography, proposed drives, parking, landscaping features (such as fences, walls, planting and walks) park or recreation areas, all facilities for storm drainage, street lighting, sewage, refuse and other waste disposal; and by 3 copies prepared by a Registered Architect of ground floor plans and architectural elevations of all proposed buildings, and at least one section through the proposed buildings and site.

(7) Special exceptions for apartments shall be granted by the Board of Appeals only if the location and design are found by them to be consistent with the objects of the Zoning By-Law as they apply to apartments. They include but are not limited to the following:

(a) Minimum disruption of the function of established neighborhoods, evidenced by premises being so located that not more than 30 single family homes are within 500 feet.

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- (b) *Avoidance of overcrowding, evidenced by premise location not less than 1,000 feet from an existing apartment complex or motel.*
 - (c) *Safe access evidenced by adequate service from a major arterial street without use of minor streets extensively developed for single family homes, and adequate access internal to the site for fire and service equipment.*
 - (d) *Adequate utility service, evidenced by availability of public water supply, adequate drainage, and Board of Health approval of sanitary sewerage arrangements.*
 - (e) *Avoidance of ecological disruption, evidenced by building location not less than 250 feet from any Great Pond, river, ocean or marsh, and site design minimizing topographic change or removal of existing trees and vegetation.*
 - (f) *Preservation of neighborhood amenity, through glare-free illumination of parking areas, site design to minimize visibility of parking areas and preservation of existing water views from public ways and effective use made of topography, landscaping, and building placement to maintain, to the degree feasible, the character of the neighborhood.*

Section added 1973

SECTION 18.07. OPEN SPACE VILLAGE DEVELOPMENT

1. Objective. The objective of Open Space Village Development is to allow relatively intensive use of land, while at the same time maintaining existing character; to preserve open space for conservation and recreation; to introduce variety and choice into residential development; to meet housing needs; to facilitate economical and efficient provision of public services.

2. Applicability. The Board of Appeals may grant a special permit for construction and occupancy of an Open Space Village Development in any district permitting residences, subject to the following regulations and conditions.

3. Procedures.

(A) Pre-application Review. To promote better communication and

avoid misunderstanding, applicants are encouraged to submit preliminary materials for informal review by both the Board of Appeals and the Planning Board prior to formal application. Preliminary subdivision plans, if any, should be submitted to the Planning Board prior to application for a special permit.

(B) Application. Applicants for a special permit for an Open Space Village Development shall be submitted to the Board of Appeals, 5 copies of an application and an overall Development Plan. Such plan shall encompass land which is contiguous except for intervening streets, though not necessarily in one ownership, and shall encompass at least 8 contiguous acres. If the plan involves more than one ownership, each owner of land included in the plan shall be a party to the application and, upon plan approval, subject to its provisions.

(C) Overall Development Plan. The Overall Development Plan shall indicate location and boundaries of the site, proposed land and building uses, location of common open space, existing topography, grading plan, location and width of streets and ways, parking, areas of proposed and retained vegetation, distinctions between upland and wetland, drainage, sewerage, and height, bulk, use, and proposed location of structures. The plan shall have been prepared by a Registered Landscape Architect, Architect, Civil Engineer, or Land Surveyor.

(D) Other Materials. The application material shall indicate each landowner's interest in the land to be developed, the form of organization proposed to own and maintain the common open space, the substance of covenants and grants of easements to be imposed upon the use of land and structures, and a development schedule.

(E) Review and Decision. Forthwith upon their receipt of the application and required plans, the Board of Appeals shall transmit 2 copies to the Planning Board and 1 copy each to the Board of Health, Conservation Commission, and Fire Chief, Yarmouth Fire Department. The Planning Board, Board of Health, Conservation Commission and Fire Chief, Yarmouth Fire Department, shall submit reports to the Board of Appeals within 45 days of the application date, and the Board of Appeals shall make no decisions upon the application until receipt of all such reports, or until 45 days

have lapsed since date of application without such reports.

(F) Criteria. Approval of an Open Space Village Development shall be granted upon Board of Appeals determination that the plan complies with the requirements of Section 4, and that the plan is superior to a conventional one in preserving open space for conservation or recreation; in utilizing natural features of the land; in allowing more efficient provision of streets, utilities, and other public services; and at least equal to a conventional plan in other respects.

4. Requirements. An Open Space Village Development must conform to the following:

(A) Number of dwelling units.

(1) The maximum number of dwelling units (living quarters for a single family plus not more than 3 boarders or lodgers, with cooking, living, sanitary and sleeping facilities independent of any other unit, or quarters for not more than 4 persons in a lodging house or dormitory) allowed in an Open Space Village Development shall equal the 'applicable land area' divided by the minimum lot area requirements for a single family dwelling in that district, multiplied by the following incentive factors; then rounded to the nearest whole number:

Applicable Land Area	Incentive Factor
Less than 20 acres	$1.00 + M - T$
20 - 50 acres	$1.1 + .9M - T$
50 - 75 acres	$1.2 + .8M - T$
75 plus acres	$1.3 + .7M - T$

Where 'M' is the number of dwelling units proposed to be in multi-family structures and 'T' is the total number of dwelling units proposed.

(2) 'Applicable Land Area' shall be determined by a Registered Land Surveyor, and equals the total area encompassed by the Overall Development Plan minus land designated on the plan for uses not primarily servicing residents of the development. No more than 10 percent of the Applicable Land Area shall be land subject to either inland or coastal wetland regulations (Sec. 40 and 40A, Ch.131, G.L.) or land otherwise prohibited from

development by local by-law or regulation.

(3) Where the development includes more than one ownership, and/or lies in more than one district, the number of units allowed shall be calculated as above for each district and summed to give an overall allowable total, which may be located on the plan without respect to allowable subtotals by district or ownership areas.

(B) Allowable uses. Uses allowed at any location shall be only those allowed in the district in which the location lies except that multi-family dwellings may be located in any Business, Highway Commercial or Residential District (except within the Yarmouth Historic District) provided that the provisions of Section D below are complied with.

Deleted and substituted 1974 - old

(C) Dimensional regulations. Except as specified for multi-family dwellings in Subsection D below, lot size, lot width, setback, coverage, yard and height regulations shall be the following:

<i>Minimum lot size</i>	<i>10,000 sq. ft.</i>
<i>Minimum lot width at proposed building line</i>	<i>100 feet</i>
<i>Minimum yard</i>	<i>30 feet*</i>
<i>Minimum side and rear yard</i>	<i>12 feet*</i>
<i>Minimum lot coverage</i>	<i>25 percent</i>
<i>Maximum height:</i>	
<i>Floors</i>	<i>2½</i>
<i>Feet</i>	<i>35</i>

** Except not less than requirements of Section 18.09 (VI) for yards in the development abutting the boundary of the Development Plan.*

- new

(C) Dimensional regulations. Lot size, lot width, setback, coverage, yard and height regulations shall be the following:

Minimum lot size	10,000 sq. ft. ^a
Minimum lot width at proposed building line	100 feet
Minimum front yard	30 feet ^{b,c}
Minimum side and rear yard	12 feet ^b
Maximum lot coverage	25 percent
Maximum height: floors	2 1/2
feet	35

^a Lot area designated for multi-family units shall not be less than 8,000 square feet per dwelling unit.

^b Except not less than the requirements of Section 18.09 for yards in the Development abutting the boundary of the Development Plan. No multi-family or attached single family structure shall be located nearer to the Overall Development Plan Boundary than 50 feet or twice the building height, whichever is greater.

^c Where private drives serve in lieu of streets, as with condominium development, yards shall be measured from a line 20 feet from the centerline of the travelled way.

Changed 1975

(D) Multi-family dwellings. Multi-family dwellings shall (*may*) be allowed only if the Board of Appeals determines that all the following will be complied with:

Deleted 1975 (substituted by Section 18.11)

(1) *1½ off-street parking spaces shall be provided per dwelling unit each space to be not less than 200 square feet gross area excluding the portion of driveway to serve each such parking space. Such parking to be located not less than 25 feet from any street or lot line.*

(1) There will be minimum disruption of the function of established neighborhoods, evidenced by not more than 30 single family dwelling structures existing at the time of application being within 500 feet of any proposed multi-family or attached single family structure.

(2) There will be safe access, evidenced by adequate service from a major arterial street; Route 6, Route 6A, Route 28, Buck Island Road, Camp Street, Forest Road, Great Western Road, Higgins Crowell Road, Highbank Road, Main Street, Mayfair Road North Dennis Road, Old Town House Road, Seaview Avenue, South Sea Avenue, South Shore Drive, South Street, Station Avenue, Union Street, West Yarmouth Road, Whites Path and Winslow Grey Road, without use of minor streets extensively developed for single family homes, and adequate access to the site for fire

and service equipment.

- (3) There will be adequate utility service, evidenced by availability of public water supply, adequate drainage, and at the location of on-site sewage disposal, having 'slight' or 'moderate' soils limitations for on-site disposal of sewage effluent, based on the 1973 S.C.S. Soil Survey for the Town of Yarmouth.

Added 1975

Septic tank leaching fields or other on-site sewage effluent discharge facilities shall be located not less than 250 feet from any pond over 5 acres, river, stream, ocean, swamp, or marsh. The Board of Appeals may reduce this setback requirement to not less than 100 feet upon demonstration by the applicant that the site plan is thereby enhanced and also that existing soil characteristics are such that no ground water or surface water pollution will result.

Deleted and substituted 1975 - old

- (4) *There will be avoidance of ecological disruption, evidenced by building location not less than 250 feet from any pond over 5 acres, river, ocean, swamp, or marsh, and site design minimizing topographic changes or removal of existing trees and vegetation.*

- new

- (4) There will be avoidance of ecological disturbance, through sensitive site design evidenced by minimizing the following: topographic change, removal of existing trees and vegetation, and visually disruptive building location. Multi-family structures shall be located not less than 250 feet from any pond over 5 acres, river, stream, ocean, swamp or marsh. The Board of Appeals may reduce this requirement to not less than 100 feet upon demonstration by the applicant that the site plan could thereby be enhanced, and also that the topography, vegetation, and soil characteristics of the site, and the proposed drainage patterns are such that siltation, erosion, surface water contamination, or other environmental degradation will not be substantially increased due to a reduced setback from waterbodies.

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- (5) There will be preservation of neighborhood amenity, through glare-free illumination of parking areas, site design to minimize visibility of parking areas and preservation of existing water views from public ways and effective use of topography, landscaping, and building placement to maintain, to the degree feasible, the character of the neighborhood.
- Deleted and substituted 1974 - old
- (6) *No multi-family or attached single family structure shall be located nearer to the Overall Development Plan boundary than 50 feet or twice the building height, whichever is greater. No multi-family structure shall contain more than 24 dwelling units. Lot area designated for multi-family units (exclusive of open space required by Paragraph F below) shall be not less than 8,000 square feet per dwelling unit. Front yard, side and rear yards, lot coverage and maximum height shall be regulated as indicated in Paragraph C above.*
- new
- (6) No multi-family structure shall contain more than 24 dwelling units.
- Added 1974
- (7) An emergency access road or lane both in front of and behind multi-family dwellings shall be provided to allow fire apparatus within 50 feet of any part of a multi-family dwelling structure. This access shall be maintained in a passable condition in all seasons, unobstructed, and must be capable of supporting vehicles weighing no less than 15 tons, regardless of seasonal ground conditions. The minimum centerline, radii and width of these emergency access lanes shall be as defined in the Town of Yarmouth Subdivision Rules and Regulations (as effective January 1, 1974) for lanes.
- (E) Improvements. Access, drainage, utilities, and grading shall meet functional standards equivalent to those established in the Planning Board's adopted Subdivision Regulations.
- Deleted and substituted 1975 - old
- Prior to issuance of building permits within an Open Space Village Development, the Planning Board shall certify to the Building In-*

spector that a detailed site plan has been submitted to them and meets those standards, and before occupancy permits for any structure are issued, the Planning Board shall certify to the Building Inspector that improvements to meet such standards have either been completed to serve such structure, or security for their completion has been received.

- new

Prior to issuance of building permits within an Open Space Village Development, the Town Engineering Department shall certify to the Building Inspector that a detailed site plan has been submitted in accordance with Section 18.10(6) and meets the requirements of said section. Occupancy permits for any structure shall be granted only in accordance with Section 18.10(7).

(F) Open Space. All land not designated for roads, dwellings, or other development within the Open Space Village Development shall be held for common use of the residents of the development. Common open space shall be preserved for recreation or conservation; and shall comprise not less than 30 percent of the 'Applicable Land Area' within the Development Plan. Ownership of common open areas shall be arranged and maintenance permanently assured through an incorporated home owners' association, condominium deeds, or other recorded land agreement through which each first owner in the development is automatically a member and each lot is subject to a charge for a share of the maintenance expenses, or through comparable arrangement satisfactory to the Board of Appeals. Preservation shall be guaranteed through dedication, by covenant or comparable legal instrument, to the community use and enjoyment of residents of the development tract, for recreational purposes serving those residents and their non-paying guests only, or for conservation. In addition, the town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Building coverage shall not exceed 5 percent in such conservation or recreation areas.

(G) Long-term Compliance. Subsequent to approval of such Open Space Village Development, no land therein shall be sold and no lot

line or structure altered from that shown on the Overall Development Plan so as to increase the extent of non-conformity with the standard dimensional regulations of this By-Law, Section 18.09(VI). Prior to sale of any lot within an Open Space Village Development, or issuance of a building permit for construction therein, such lots shall be shown on a plan recorded in the Registry of Deeds or registered with the Land Court, which plan shall make reference to the recorded land agreements referred to in Section (F). Unless the Board of Appeals has specifically approved staged development, such plan shall show all lots to be included in the Development.

Renumbered 1973 - old

SECTION V: NON-CONFORMING USES

- new

SECTION 18.08: NON-CONFORMING USES

1. Continuation of Non-Conforming Uses. Any lawful building or use of a building or premises or part thereof at the time this By-Law or any amendment thereto is adopted may be continued although such building or use does not conform to the provisions thereof, provided SUCH USE HAS NOT BEEN DISCONTINUED FOR A PERIOD OF THREE YEARS.

2. Change or Extension of Non-Conforming Uses. The Board of Appeals may permit any non-conforming use to be changed to any specified use not substantially different in character or more detrimental or objectionable to a neighborhood.

Renumbered - 1973 - old

SECTION VI: AREA REGULATIONS

- new

SECTION 18.09: AREA REGULATIONS

Reorganized into 2 paragraphs 1973

- old

1. Rear Yards. No dwelling in any District shall be built within 20 feet of the rear lot line, except on corner lots, which shall be considered as having no rear lot line. Accessory buildings shall not be built within 6 feet of the rear lot line or within 12 feet of any other building, except in the Business or Industrial Districts where there is a party wall.

- new 1. Rear Yards.
 (A) Residential Districts. No dwelling in any district shall be built within 20 feet of the rear lot line, except on corner lots, which shall be considered as having no rear lot line.
 (B) Accessory Buildings. Accessory buildings shall not be built within 6 feet of the rear lot line or within 12 feet of any other building, except in the Business or Industrial Districts where there is a party wall.

(C) and (D) added 1973

(C) Highway Commercial District. See Section 18.04(4C) of this By-Law.

(D) Industrial Districts. See Section 18.05(6C) of this By-Law.

Reorganized into 2 paragraphs and distances changed 1973 - old

2. Side Yards. *In a Residence District no building or part thereof shall be built within 6 feet of a side lot line or within 12 feet of any other building. In a business district no building shall be built within 6 feet of any lot line unless there is a fireproof wall or a fireproof party wall which shall extend not less than 16 inches above the roof. Said wall may be built on the lot line providing that the building is not to be used for human habitation.*

- new

2. Side Yards.

(A) Residential Districts. In a residential district no building or any part thereof shall be built within 15 feet of a side lot line or within 21 feet of any other building on an adjacent lot.

(B) Business Districts. In a business district no building shall be built within 6 feet of any lot line unless there is a fireproof wall or a fireproof party wall which shall extend not less than 16 inches above the roof. Said wall may be built on the lot line providing that the building is not to be used for human habitation.

(C) and (D) added 1973

(C) Highway Commercial District. See Section 18.04(4B) of this By-Law.

(D) Industrial Districts. See Section 18.05(6B) of this By-Law.

Reorganized into 2 paragraphs 1973 - old

3. Front Yards. *In a residence district no building shall be built and no roadside stand or accessory use shall be placed within 30 feet*

of the street line, provided that no building need be set back more than 30 percent of the depth of the lot or more than the average of the setbacks of the buildings on the lots next thereto on either side, a vacant lot or a lot occupied by a building set back more than 30 feet being counted as though occupied by a building set back 30 feet. In a business or industrial district no building shall be built and no roadside stand shall be placed within 20 feet of the street line, except in the business district adjoining and southerly of Route 6 along Station Avenue, no building shall be built and no roadside stand shall be placed within 75 feet of the street line and no parking lot shall be built within 25 feet of the street line, provided that no building shall be placed nearer the street line than the average alignment of the setbacks of the buildings on the two lots next thereto on either side, existing at the time of the passage of this By-Law, a vacant lot or a lot occupied by a building set back more than 20 feet being counted as though occupied by a building set back 20 feet.

- new

3. Front Yards.

(A) Residential Districts. In a residential district no building shall be built and no roadside stand or accessory use shall be placed within 30 feet of the street line, provided that no building need be set back more than 30 percent of the depth of the lot nor more than the average of the setbacks of the buildings on the lots next thereto on either side, a vacant lot or a lot occupied by a building set back more than 30 feet being counted as though occupied by a building set back 30 feet.

(B) Business Districts. In a business district no building shall be built and no roadside stand shall be placed within 20 feet of the street line, except in the business district adjoining and southerly of Route 6 along Station Avenue, no building shall be built and no roadside stand shall be placed within 75 feet of the street line (*and no parking lot shall be built within 25 feet of the street line*) provided that no building shall be placed nearer the street line than the average alignment of the setbacks of the buildings on the two lots next thereto on either side, existing at the time of the passage of this By-Law, a vacant lot or a lot occupied by a building set back 20 feet being counted as though occu-

Words deleted 1975

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- (C) and (D) added 1973
 (C) Highway Commercial District. See Section 18.04(4A) of this By-Law.
 (D) Industrial Districts. See Section 18.05(6A) of this By-Law.
- Section 4 deleted and substituted 1974
 - old 4. Lot Size.
- Subsection (A) deleted and substituted 1971
 - old (A) No dwelling shall be erected in any RD-1 district on a lot containing less than 20,000 square feet or less than 150 feet wide for a depth of 100 feet from the street.
 - new (A) No dwelling shall be erected in any RD-1 district on a lot containing less than 25,000 square feet or less than 175 feet wide for a depth of 110 feet from the street line.
- Subsection (B) deleted and substituted 1971
 - old (B) No dwelling shall be erected in any RD-2 district on a lot containing less than 15,000 square feet or less than 125 feet wide for a depth of 90 feet from the street line.
 - new (B) No dwelling shall be erected in any RD-2 district on a lot containing less than 20,000 square feet or less than 125 feet wide for a depth of 100 feet from the street line.
- Subsection (C) deleted and substituted 1971
 - old (C) No dwelling shall be erected in any RD-3 district on a lot containing less than 10,000 square feet or less than 100 feet wide for a depth of 80 feet from the street line.
 - new (C) No dwelling shall be erected in any RD-3 or RD-4 district on a lot containing less than 15,000 square feet or less than 125 feet wide for a depth of 90 feet from the street line.
 - new 4. Lot Size.
 (A) Residential Districts.
 (1) Minimum lot area
 a. RD-1 -- 25,000 square feet.

- b. RD-2 -- 20,000 square feet.
 c. RD-3 and RD-4 -- 15,000 square feet.
- (2) Minimum frontage measured along a street.
 a. RD-1: 175 feet; frontage may be reduced to a minimum of 50 feet if the lot is at least 175 feet wide at the proposed building setback line, which shall be shown on the plan. Any lot shall be capable of containing a square of 140 feet.
 b. RD-2: 150 feet; frontage may be reduced to a minimum of 50 feet if the lot is at least 150 feet wide at the proposed building setback line, which shall be shown on the plan. Any lot shall be capable of containing a square of 120 feet.
 c. RD-3 and RD-4: 125 feet; frontage may be reduced to a minimum of 50 feet if the lot is at least 125 feet wide at the proposed building setback line, which shall be shown on the plan. Any lot shall be capable of containing a square of 100 feet.

Subsection (D) deleted and substituted 1970 - old

(D) No dwelling shall be erected in any RD-4 district on a lot containing less than 8,500 square feet or less than 80 feet wide for a depth of 80 feet from the street line.

Subsection (D) deleted 1973 - new

(D) No dwelling shall be erected in any RD-4 district on a lot containing less than 10,000 square feet or less than 100 feet wide for a depth of 80 feet from the street line.

Subsection (E) deleted and substituted by Section 4(B) 1973 - old

(E) No dwelling shall be erected in any district on a lot containing less than 8,500 square feet or less than 80 feet wide for a depth of 80 feet from the street line, provided that one dwelling may be erected on any lot which prior to March 8, 1960, either was separately owned or was (at the time this By-Law is adopted, either is separately owned or is) shown on a recorded plan of lots.

Wording changed 1973

- new

(B) Minimum Lot Size in all Districts.
 No dwelling shall be erected in any district on a lot containing less than 15,000 square feet or less than 125 feet wide for a depth of 90 feet from the street line, provided that one single family dwelling may be erected on any legally created lot shown on a re-

-
- corded plan, so long as all zoning requirements applicable to the lot at the time it was recorded at the Barnstable County Registry of Deeds or Land Registration Office are complied with, including area frontage and yard requirements.
- Relabelled (C) and titled 1973 (C) Corner Lots. On new subdivisions of land the corner lots thereon shall contain a minimum area of 10,000 square feet with a minimum of 100 foot frontage on each street.
- Added 1971
Relabelled (D) and titled 1973 (D) Two Family Dwellings. No two family dwelling shall be erected in any district on a lot containing less than 1 1/2 times the required square footage for said district or less than 125 feet width for a depth of 90 feet from the street line.
- Deleted and substituted 1974 - old
(Added 1971, relabelled (E) and titled 1973) (E) *Business Districts. No building in a business district shall be erected on a lot containing less than 10,000 square feet or less than 100 feet wide for a depth of 80 feet from the street line, provided that a lot having an area or frontage or depth of lesser amounts than aforesaid may be built upon if, prior to June 24, 1971 (at the time of adoption of this By-Law) said lot was laid out by plan or deed duly recorded with Barnstable County Registry of Deeds or Barnstable County Land Registration Office.*
- Wording changed 1973
- new (E) Business Districts.
1. Minimum lot area -- 10,000 square feet.
2. Minimum frontage measured along a street shall be 100 feet. This may be reduced to 80 feet if the lot is at least 100 feet wide 20 feet back from the street line.
- Added 1973 (F) Highway Commercial District.
See Sections 18.04(3A, B and C) of this By-Law.
- Added 1973 (G) Industrial Districts.
See Sections 18.05(5A, B and C) of this By-Law.
5. Appurtenant Open Space. No yard or other open space required for a building by this By-Law shall, during the life of such building, be

occupied by or counted as open space for another building.

6. Projections. Nothing herein shall prevent the projection of cornices, window sills, belt courses and other ornamental features into any required yard, not exceeding 18 inches, except that steps in front yards may be permitted.

Subheading added 1973

7. Filling. No person shall fill any area in the Town of Yarmouth with earth, concrete or other material to a depth in excess of 5 feet without a permit from the Board of Selectmen. Said Board may require an applicant for such permit to furnish such plans or specifications as the Board may deem necessary and any permit issued hereunder may contain such provisions, conditions or limitations as the Board may deem proper. Any person aggrieved by any action of the Board of Selectmen hereunder shall have the right to appeal to the Zoning Board of Appeals under the applicable provisions of the Zoning Laws.

Added 1974

8. Building Height. The height of any building erected in any district shall exceed neither 35 feet or 2 1/2 stories. The height of any building shall be measured from the highest point of any roof or parapet to the average finished grade on the street side of the structure, provided that at no point shall the height of the exterior face of a building in relation to finished grade exceed the permitted height by more than 10 feet. Height limitations shall not apply to chimneys, spires, cupolas, TV antennas and other parts of buildings not intended for human occupancy.

Added 1974

9. Lot Coverage.
 (A) Residential districts -- maximum building coverage shall be 25% of lot area.
 (B) Business districts -- maximum building coverage shall be 50% of lot area.

Renumbered 1973 - old

SECTION VII: ADMINISTRATION.

- new

SECTION 18.10: ADMINISTRATION.

1. Enforcement. This By-Law shall be enforced by the Selectmen until

such time as there is a Building Inspector and thereafter by such Inspector.

Deleted and substituted 1973 - old

Wording changed 1973

2. Board of Appeals. *There shall be a Board of Appeals of five members and not less than two or more than four associate members appointed by the Selectmen as provided in G.L. (Terr. Ed.) Ch.40A Sec.14 (Section 30 of Chapter 40 of the General Laws), as amended, which shall act on all matters within its jurisdiction under this By-Law (those By-Laws) in the manner prescribed in said section.*

- new

2. Board of Appeals. There shall be a Board of Appeals appointed by the Selectmen composed of five members and such number of associate members as the Selectment shall determine, as provided in G.L. (Ter. Ed.) Ch.40A Sec.14, which shall act on all matters within its jurisdiction under this By-Law in the manner prescribed by G.L. (Ter. Ed.) Ch.40A.

Renumbered and titled 1973

3. Signs. Whenever a variance, or special permit or approval of the Board of Appeals is given for a business, industrial, or commercial use, then the sign restrictions applicable to business districts shall apply to such variances, special permits or approvals.

Added 1972 and renumbered 1973

4. Special permits, Board of Appeals approval or special exceptions shall not be granted unless the applicant demonstrates that no undue nuisance, hazard, or congestion will be created and that there will be no substantial harm to the established or future character of the neighborhood or town.

Deleted and substituted 1973 - old
(Renumbered and titled 1973)

5. Permits. *No buildings shall be erected, placed, or changed as to the use thereof, without a permit therefor issued by the Selectmen. The Selectmen may require, if they deem necessary, plans and specifications to be filed with the application for permit, such permit and application therefor to be in such form as the Selectmen prescribe. Any person aggrieved by the refusal of the Selectmen to issue a permit under the provisions of these By-Laws may appeal to the Board of Appeals by filing with the Selectmen and Board of Appeals a notice of appeal, in accordance with the rules of the Board on file with the Town*

Wording changed 1973

Clerk and in accordance with G.L. (Ter. Ed.) Ch.40A Sec.13 (Section 30 of Chapter 40 of the General Laws). Applications for permits from the Board of Appeals required by these By-Laws shall be filed in the same manner. Any permit used hereunder shall be void if not used within 90 days of issue.

- new 5. Permits. No building shall be erected, placed or changed as to the use thereof, without a permit therefor issued by the Building Inspector. the Building Inspector may require, if the Building Inspector deems necessary, plans and specifications to be filed with the application for permit, such permit and application therefor to be in such form as the Building Inspector prescribes. Any person aggrieved by the refusal of the Building Inspector to issue a permit under the provisions of this By-Law may appeal to the Board of Appeals by filing with the Building Inspector and the Board of Appeals a notice of appeal in accordance with G.L. (Ter. Ed.) Ch.40A Sec.13. Applications for permits from the Board of Appeals required by this By-Law shall be filed in the same manner. Any building permit used hereunder shall be void if not used within 90 days from date of issue.

Added 1973

No land or building shall be initially occupied or changed from one category of use under Sections 18.02, 18.03, 18.04 or 18.05 to another without an occupancy or use permit having been issued by the Building Inspector and shall be issued only if all requirements of this and other town by-laws are complied with.

Wording changed 1975
(Added 1974)

6. Site Plan Review. (*Applications for the following shall be subject to site plan review:*) Applications for new construction or additions for the following activities, if involving 1,000 square feet or more of new ground coverage by structures or paving, shall be subject to site plan review.

Open Space Village Developments

Mobile Home Parks

Motels and Guest Houses

All other non-residential uses requiring 10 or more parking spaces

(A) Plans subject to site plan review shall show the location and di-

mensions of the lot, the exact location and size of any existing or proposed buildings, streets and ways adjacent to the lot, existing and proposed topography, drives, parking, landscaping, park or recreation areas, use of structures and land, screening, water, sanitary sewerage, and storm drainage; and separate plans shall also show ground floor plans and architectural elevations of all proposed buildings and signs, to be prepared (except in the case of one or two family dwellings) by a registered architect or engineer if such buildings contain 35,000 cubic feet of space or more.

(B) Forthwith upon their receipt, a copy of the above plans shall be forwarded by the Board of Appeals or the Building Inspector to the Town Engineering Department for his review and report. No building permit shall be issued and no special permit, if any, shall be acted upon without site plan review by the Town Engineering Department unless 25 days lapse from the date of referral without receipt of notice of the Town Engineering Department's action.

(C) The Town Engineering Department shall review a site plan with respect to the following:

- (1) Internal circulation and egress are such that traffic safety is protected, and access via minor streets servicing single family homes is minimized.
- (2) Reasonable use is made of building location, grading and vegetation to reduce visibility of parking areas from public ways.
- (3) Adequate access to each structure for fire and service equipment is provided.
- (4) Utilities and drainage serving the site provide functional service to each structure and paved area in the same manner as required for lots within a subdivision, and fire protection provisions meeting Fire Department Regulations are provided.
- (5) Lighting of parking areas avoids glare on adjoining properties.
- (6) Major topographic changes or removal of existing trees are avoided.
- (7) In or abutting residential districts, effective use is made of topography, landscaping and building placement to maintain, to the

degree feasible, the character of the neighborhood.

(8) All other requirements of the Zoning By-Law are satisfied.

Added 1974

7. Issuance of Occupancy Permits. Where more than one principal structure is erected on a lot, no occupancy permit for full or partial occupancy of the site shall be issued until parking, access, drainage and utilities serving the structure to be occupied have been completed to the satisfaction of the Town Engineering Department or a bond for their completion has been posted.

Added 1974

8. Professional Inspection. Construction of projects under a single building permit involving either one or more structures (other than one or two family dwellings) each containing 35,000 cubic feet of volume or more, or involving 50 or more dwelling units, irrespective of type, shall be done with the inspection of a registered professional engineer or architect, retained by the developer. Such engineer or architect shall periodically, as requested by the Building Inspector, attest that all work being done under his supervision is being done in accordance with the plans as approved for a building permit, in accordance with any Board of Appeals stipulations, and in accordance with all applicable town and state codes and regulations.

Any discrepancy or deviation from the approved site plan shall be reported forthwith by such engineer or architect to the Building Inspector. If such discrepancy is consistent with requirements of all applicable by-laws and permits and not in conflict with the safety and welfare of the public, work may proceed, and the Building Inspector may require revised plans prior to issuance of an occupancy permit. If not consistent, the discrepancy shall be corrected before work proceeds.

Renumbered 1974

9. Variances. The Board of Appeals may authorize on appeal a variance from the terms of these by-laws with respect to a particular parcel of land where, owing to conditions peculiar to such parcel, a literal enforcement of the provisions of these by-laws would involve substantial practical difficulty and hardship. In granting such a variance, due consideration shall be given to promoting the public good, and no variance shall be granted which will have a detrimental effect upon the neighborhood. In any case where the interpretation of these by-laws is

not clearly obvious, the Selectmen are authorized and directed to submit to the Board of Appeals for expression or opinion before issuing a ruling on such case.

Renumbered 1974

10. Penalty. Any person violating any of the provisions of this By-Law shall be fined not more than \$20 for each offense. Each day that such violation continues shall constitute a separate offense.

Renumbered 1974

11. Other Regulations. This By-Law shall not interfere with or annul any by-law, rule, regulation or permit, provided that unless specifically excepted, where this By-Law is more stringent it shall control.

Renumbered 1974

12. Validity. The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision hereof.

Added 1975

SECTION 18.11: PARKING AND LOADING REQUIREMENTS

1. Intent and Application of Parking Requirements

(A) It is the intent of this section that adequate off-street parking must be provided within a reasonable distance to service all parking demand created by new construction, whether through new structures or through additions to existing ones, or through change of use creating higher parking demands.

(B) Buildings, structures and land uses in existence on the effective date of these provisions are not subject to these off-street parking requirements and may be rebuilt, altered or repaired, but not enlarged or changed in use, without becoming subject to these requirements.

(C) In applying for building or occupancy permits, the applicant must demonstrate that the minimum parking requirements set forth below will be met for the new demand without counting existing parking.

(D) The minimums of Section 18.11(2) may be reduced on special permit for an exception from the Board of Appeals, upon the Board's determination that special circumstances render a lesser provision adequate for all parking needs. Examples of special circumstances include:

- (1) Use of a common parking lot for different uses having peak demands occurring at different times,
- (2) Age or other characteristics of occupants which reduce their auto usage,
- (3) Peculiarities of use which render usual measurements of demand invalid.

2. Schedule of Off-Street Parking Requirements.

Residential:

Dwelling units having 3 or more bedrooms.	2 spaces.
Dwelling units having fewer than 3 bedrooms.	1 space.
Guest house, lodging house, other group accommodation.	1 space/2 persons accommodated.
Hotel or motel guest units.	1 spaces/guest unit plus 1 space/10 guest units or fraction thereof.
Nursing homes or hospitals.	1 space/3 beds.

Non-residential:

Industry including warehouses or other structures for storage, distribution, or wholesale marketing.	1 space/1.3 employees on the largest shift, but capable of expansion to not less than 1 space/300 sq. ft. of gross floor area.
Retail business/consumer service.	1 space/200 sq. ft. gross leasable floor area plus 1 space/ separate enterprise.
Office, professional, administrative, banks.	1 space/200 sq. ft. gross ground floor area, plus 1 space per 400 sq. ft. gross floor

* Gross floor area, for this and other uses listed in this table is measured to the outside of the building with no deductions for accessory unoccupied areas such as hallways, stairs, closets, thickness of walls, columns or other such features.

Restaurants or establishments licensed as a common victualer or businesses purveying food ready to be consumed on or off premises.

Places of public assembly, including school and church auditoriums, libraries, museums, clubs, theaters, undertaking establishments, trade schools, bus depots and recreation facilities not listed elsewhere in this table.

Bowling alley.

Tennis courts (except that there shall be no requirements when a single court is located as an accessory to a single family dwelling on the same lot).

Marina.

Laundromats.

Gas/service stations.

All other uses.

area on all floors exclusive of storage space.

1 space/3 seats or for establishments where some or all customers are not served food at their seats, 10 spaces for each food service station or person dispensing food, whichever is greater.

1 space/3 occupants as determined by Table 6-1, Massachusetts State Building Code.

4 spaces/alley.

3 spaces/court.

1 space/boat capacity.

1 space/2 machines.

3 spaces/service bay, but not less than 1 space/100 sq. ft. of gross floor area.

Parking spaces adequate to accommodate under normal conditions the vehicles of occupants, employees, members, customers, clients and visitors to the premises, as determined by the Building Inspector on advice of the Planning Board.

3. Parking Area Design and Location.

(A) Off-street parking spaces, each not less than 10 feet by 20 feet per vehicle, excluding the portion of the driveway to each such space, shall be provided on the same lot. However, driveway area outside of a street right-of-way may be counted for off-street parking when serving a single family dwelling. In the Highway Commercial and Industrial Districts, such spaces may be located on another lot within a radius of 200 feet and in the same zoning district.

(B) No off-street parking area for 5 or more cars shall be located within 20 feet of a street right-of-way or within 10 feet of any lot line.

(C) all required parking areas except those serving single family residences shall be paved, unless exempted on special permit from the Board of Appeals for cases, such as seasonal or periodic use, where the proposed surface will prevent dust, erosion, or unsightly conditions. Drainage facilities for each parking area shall be designed and constructed to contain storm water runoff on the lot.

(D) Parking areas for 5 cars or more shall be designed with enough maneuvering space so that vehicles are not required to back onto a public way.

(E) Centerlines of driveways serving 20 or more parking spaces, if egressing onto a state-numbered or state-maintained highway, or onto a street improved under the Chapter 90 program, shall observe minimum separations as follows, unless precluded by lot configuration in existence on the date of adoption of this By-Law:

From other such driveways	
same side of road	500 feet
opposite side of road	0 or 250 feet
From intersecting street	250 feet
sideline.	

No existing parcel shall be subdivided into lots with frontage which would preclude meeting these requirements unless access rights-of-way are provided across adjoining lots. Driveways subject to this section shall have 400 feet visibility in each travel direction, and shall each comprise not more than two travel lanes, each not more than 12 feet in width at the lot line.

(F) Parking lots for 5 or more cars shall be screened from any residential use or district which is abutting or separated from it only by a street. Screening shall be by a 4 foot wide planting strip maintained with densely planted shrubs not less than 5 feet in height, or by grading; fences or walls may be part of such screening where deemed necessary, but shall not be suitable as a substitute therefor or themselves be left unscreened from abutting areas.

(G) All buffer area between street or lot lines and off-street parking areas not included in Paragraph (F) shall be unpaved, not parked on and maintained with vegetation or other organic material.

(H) Parking areas for 20 or more cars shall contain at least one tree of 2 inch caliper or larger per 8 cars, to be located within the parking area in soil plots allowing not less than 40 sq. ft. of unpaved soil area per tree, or to be located within 5 feet of the parking lot.

4. Loading Requirements.

(A) Loading zone criteria. Adequate off-street loading facilities and space must be provided to service all regular needs created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Facilities shall be so sized and arranged that no vehicle need regularly back onto a public way, or be parked on a public way while loading, unloading, or waiting to do so.

(B) Application Requirements. Prior to issuance of a permit for construction of a new structure, addition or alteration of an existing structure, or change of use, the Building Inspector may require that the applicant submit information concerning the adequacy of existing or proposed loading facilities on the parcel. Such information may include a plan of the loading area showing its size and its relationship to buildings, parking areas and public ways, documentation of the types of goods and/or persons being loaded and unloaded from vehicles, the expected types of vehicles to be serviced at the loading area, and the expected normal hours of operation. The Building Inspector shall use such information to determine whether or not the criteria of Paragraph (A) above are

met. In making such determination the Building Inspector shall seek the advice of the Planning Board and the Town Engineering Department.

Added 1975

SECTION 18.13: DEFINITIONS

In this By-Law the following terms shall have the following meanings unless other meaning is required by the context or is specifically prescribed.

Accessory Building or Use shall mean a building or use, customarily incidental to and located on the same lot with the principal building or use except that if more than 30% of the floor area or 50% of the lot area is occupied by such use, it shall no longer be considered accessory.

Building Height shall mean the vertical measure from the highest point of any roof or parapet to the average finished grade on the street side of the structure. Not included are chimneys, spires, cupolas, TV antennas, and other parts of buildings not intended for human occupancy.

Dwelling shall mean a building or part of a building used exclusively as the living quarters of one or more families.

Dwelling, Single Family shall mean a dwelling other than a mobile home singly and apart from any other building, used exclusively for residential purposes for one family.

Dwelling, Multi-family shall mean a dwelling containing 3 or more dwelling units, irrespective of tenure or ownership.

Dwelling Unit shall mean living quarters for a single family plus not more than 4 boarders, lodgers, or domestic employees with cooking, living, sanitary and sleeping facilities independent of any other unit.

Family shall mean an individual or 2 or more persons related by blood marriage, or a group of not more than 5 persons not so related, living

together in a single housekeeping unit.

Guest House shall mean a structure similar in character to a single family dwelling in which overnight lodging is offered for 5 or more persons, primarily tourists.

Guest Unit shall mean a room or suite of rooms in a hotel, motel, motor inn, or guest house suitable for separate rental.

Hospital shall mean a facility for the care and treatment of patients as licensed by the Massachusetts Department of Public Health under Sec. 51 or 71 of Ch. 111, G.L.

Hotel or Motel shall mean a building or group of buildings consisting of 3 or more guest units, providing lodging with or without meals on a transient basis for compensation.

Lot Frontage shall mean that portion of a lot fronting upon and having rights of access to a way providing legally sufficient frontage for the division of land under the requirements of G.L. (Ter. Ed.) Ch. 41, Sec. 81L. To be measured continuously along a single street line.

Mobile Home shall be defined as any vehicle or object designed for movement on wheels and having no motive power of its own, but which is drawn by or used in connection with a motor vehicle, and which is so designed and constructed, or reconstructed or added to by means of such accessories, as to permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks or other foundation, and shall include the type of construction commonly known as mobile home, having a body width exceeding 8 feet and a body length exceeding 32 feet.

Mobile Structure shall mean a movable structure designed for year-round occupancy used for office or other non-residential activity.

Nursing Home shall mean any dwelling or building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing

care for hire, as licensed by the Massachusetts Department of Public Health under Sec. 71-73 of Ch. 111, G.L.

Sign shall mean an advertising or informational device as defined by the Town of Yarmouth Sign By-Law.

Structure shall mean a combination of materials assembled at a fixed location to give support or shelter, or anything construction or erected, the use of which requires a fixed location on the ground, including but not limited to buildings, mobile homes, swimming pools having a capacity of 4,000 square feet or more, piers, jetties, signs, fences, radio antennae, and retaining walls. The word 'structure' shall be construed, where the context requires, as though followed by the words 'or part or parts thereof'.

Yard shall mean an open space, unoccupied and unobstructed by any structure (exceeding 75 sq. ft. floor area) except the following:

- a) fences, walls, poles, posts, paving, and other customary yard accessories, ornaments, and furniture.
- b) in front yards only, eaves, steps, and non-covered porches.