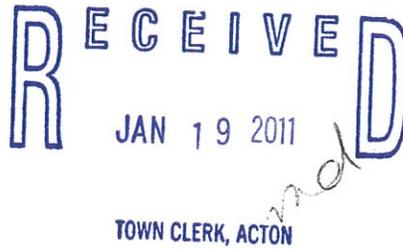




Planning Department



TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9636
Fax (978) 264-9630
planning@acton-ma.gov

January 19, 2011

Notice of Public Hearing on Proposed Zoning Changes

Please publish the following as a LEGAL NOTICE on *January 27, 2011* and *February 3, 2011*.

Acton Planning Board public hearing - 2/15/11, 7:45 PM, Town Hall – Faulkner Room (204), on proposed zoning bylaw and map changes to: (A) Amend the definitions of Gross and Net Floor Area in sections 1.3.7 and 1.3.8; (B) amend section 7.4.1 regulating the visible sign materials in village zoning districts; (C) amend section 8.2.3.1 regulating the extension of non-conforming two-family and multi-family uses in residential districts; (D) in section 5, Table of Standard Dimensional Regulations, amend footnotes (11) and (13), which regulate the maximum net floor areas and floor area ratios for residential and non-residential uses in the South and West Acton village districts; and (E) Adopt a new groundwater protection district map with amended Zone 2 delineations for the Acton Water District's Kennedy/Marshall well field off Main Street in North Acton and the Assabet well field off High Street in South Acton, and amend related sections 2.2 and 4.3.2.2 of the zoning bylaw. Agricultural operations will not be impacted. Proposals are available at the Planning Department in Town Hall.

Distribution list (**do not include in advertisement**):

The Beacon - Legal Notices	Town of Boxborough Planning Board
Town Clerk for posting	Town of Carlisle Planning Board
Town Counsel	Town of Concord Planning Board
Town Manager	Town of Littleton Planning Board
Planning Board	Town of Maynard Planning Board
DHCD	Town of Stow Planning Board
Farmland Advisory Board	Town of Sudbury Planning Board
MAPC	Town of Westford Planning Board

To see if the Town will vote to amend the zoning bylaw as follows:

- A. Delete Sections 1.3.7, definition of Gross Floor Area, and 1.3.8, definition of Net Floor Area, and replace them with new Sections 1.3.7 and 1.3.8 as follows:

1.3.7 FLOOR AREA, GROSS: The total of all horizontal areas in all floors of a BUILDING, including without limitation basements, attics, and other storage areas, measured from the exterior faces of exterior walls, or from the centerline of a wall separating two attached BUILDING units, minus interior parking facilities, garages, and any space where the floor-to-ceiling height is less than six feet.

1.3.8 FLOOR AREA, NET: Eighty percent (80%) of the GROSS FLOOR AREA as defined in Section 1.3.7, minus any areas used for a Child Care Facility as defined in Section 3.4.6 of this Bylaw provided that such Child Care Facility is accessory to a PRINCIPAL USE located in the same BUILDING or on the same LOT.

[Note – Sections 1.3.7 and 1.3.8 currently read:

1.3.7 FLOOR AREA, GROSS: The sum of the gross horizontal areas of the several floors of a BUILDING measured from the exterior face of exterior walls, or from the centerline of a wall separating two BUILDINGS, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

1.3.8 FLOOR AREA, NET: The total of all floor areas of a BUILDING including basement and other storage areas, but not including stairways, elevator wells, rest rooms, common hallways and BUILDING service areas, and not including areas used for a Child Care Facility as defined in Section 3.4.6 of this Bylaw provided that such Child Care Facility is accessory to a PRINCIPAL USE located in the same BUILDING or on the same LOT.]

- B. In Section 7 4.1, insert the words “EXTERIOR or FREESTANDING” before the first appearance of the word “SIGN”.

[Note – Section 7.4.1 currently reads:

7.4.1 Design – In the Village Districts no visible portion or exterior surface of any SIGN shall be made of plastic, other petroleum based products, or sheet metal, except that in the EAV District such materials may be used provided that the visible portions and exterior surfaces of a SIGN have a wooden appearance.]

- C. In Section 8.2.3.1 delete the words “in BUILDING area” in each of its Sub-sections a) and b).

[Note – Section 8.2.3.1 currently reads:

8.2.3.1 In a Residential District a nonconforming USE may not be extended in area, except that,

a) nonconforming Two-FAMILY Dwellings may be extended in BUILDING area by right, and

b) nonconforming Multifamily Dwellings may be extended in BUILDING area by special permit from the Board of Appeals.]

, or take any other action relative thereto.

SUMMARY

- A. This part (a) clarifies the definition of Gross Floor Area consistent with years of interpretation practice, and (b) simplifies the definition of Net Floor Area to ease administration, plan review, and enforcement. Net Floor Area is the dimension used in the Zoning Bylaw for determining Floor Area Ratio, which is used in many zoning districts and special land use provisions to

regulate buildings' densities and overall massing relative to the lots they sit on. Gross Floor Area plays a lesser role in the Zoning Bylaw. It is used only for regulating the sizes of accessory apartments, and setbacks and separation standards for certain larger buildings in Planned Conservation Residential Communities (PCRCs). While buildings' designs, purposes, and uses vary, the areas currently excluded from Net Floor Area - exterior wall space, stairways, elevator wells, rest rooms, common hallways, and building service areas - on average make up about 20% of a building's Gross Floor Area.

- B. The change to the sign regulations would exempt interior signs – such as internally affixed window signs – from the material standards applicable in village districts.
- C. The change would allow that extensions of non-conforming uses (by right for nonconforming two-family dwellings; by special permit for non-conforming multi-family dwellings) are not solely limited to the building. In a recent case before the ZEO, the addition of a modest off-street parking space for a non-conforming two-family dwelling may have technically not been approvable because it was not an extension of the building itself. However, an extension or addition of a garage would have been clearly covered under the current language of section 8.2.3.1.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 264-9636
Selectman assigned:

Board of Selectmen:

Finance Committee:

Planning Board:

ARTICLE ZD (2011ATM) #
(Two-thirds vote)

**AMEND ZONING BYLAW -
FLOOR AREA RATIO IN THE SOUTH AND
WEST ACTON VILLAGE (SAV) ZONING DISTRICTS**

To see if the Town will vote to amend the Zoning Bylaw as follows

- A. In Section 5, Table of Standard Dimensional Regulations, change the cell in line “SAV” and column “Maximum Floor Area Ratio” from 0.20 (13) to 0.40 (13), and deleting footnote (13) and replacing it with a new footnote (13) as follows:

- (13) Within the Maximum FLOOR AREA RATIO of 0.40, a project can consist entirely of habitable residential NET FLOOR AREA, or it can consist of a mix of habitable residential and non-residential NET FLOOR AREA; provided, however, that for every square foot of non-residential NET FLOOR AREA built above the FAR of 0.20, an equal amount or more of habitable residential NET FLOOR AREA is provided simultaneously and set aside exclusively for residential USE.

[Note: Footnote (13) currently reads:

(13) The maximum Floor Area Ratio (FAR) may be increased to .40, provided that for every square foot of non-residential NET FLOOR AREA built above FAR of .20 an equal amount or more of habitable residential NET FLOOR AREA is provided simultaneously, and set aside for exclusive residential USE.]

- B. In Section 5, Table of Standard Dimensional Regulations, change the cell in line “WAV” and column “Maximum Floor Area Ratio” from 0.40 (11) to 0.70 (11), and delete footnote (11) and replacing it with a new footnote (11) as follows:

- (11) Within the Maximum FLOOR AREA RATIO of 0.70, a project can consist entirely of habitable residential NET FLOOR AREA, or it can consist of a mix of habitable residential and non-residential NET FLOOR AREA; provided, however, that for every square foot of non-residential NET FLOOR AREA built above the FAR of 0.40, an equal amount or more of habitable residential NET FLOOR AREA is provided simultaneously and set aside exclusively for residential USE.

[Note: Footnote (11) currently reads:

(11) The FLOOR AREA RATIO may be increased to .70 provided that for every 1000 square feet of non-residential NET FLOOR AREA built above a FLOOR AREA RATIO of .40 an at-least-equal amount of residential NET FLOOR AREA is provided simultaneously.]

, or take any other action relative thereto.

SUMMARY

The Floor Area Ratio (FAR) is the result of the division of the Net Floor Area of all buildings on a lot by the Developable Site Area of the lot on which the buildings are located. For the Zoning Bylaw’s definition of Net Floor Area see the Article in this Town Meeting Warrant entitled “AMEND ZONING BYLAW – CLARIFICATIONS, CORRECTIONS & MINOR CHANGES”. The Zoning Bylaw defines Developable Site Area as the land area of the lot that remains after

subtracting wetlands, areas in the flood plain, access or right-of-way easements, and in the case of split-zoned lots areas that are in a zoning district where the principal use of the lot is not permitted. For example, a lot comprising 12,000 square feet with 10,000 square feet of Developable Site Area has a building on it that totals 5,000 square feet in Net Floor Area. The FAR on the lot is 0.50 (5,000 sf/10,000 sf). This means that the building's Net Floor Area comprises 50% of the Developable Site Area of the lot. The footprint of a single-story building would cover about 50% of the lot's Developable Site Area, the footprint of a two-story building would cover about 25%, the footprint of a three-story building would cover about 16.67%, and so on.

Currently, the Zoning Bylaw's Table of Standard Dimensional Regulations states that the FAR limit in the South Acton Village (SAV) District is 0.20, and footnote (13) increases the FAR limit to 0.40 for lots with residential land uses. On lots with an FAR at or below 0.20, the land uses may be commercial, industrial, residential, or any combination thereof. Footnote (13) only affects the uses in that portion of a building's Net Floor Area that causes a lot's FAR to exceed 0.20. From the adoption of the SAV zoning provisions in 1995 until recently, the Town's Zoning Enforcement Officers have interpreted Footnote (13) to mean that only non-residential uses are limited on the portion of the FAR above 0.20, and that this limit is not more than half of the Net Floor Area in excess of FAR 0.20. As a result, the Net Floor Area in excess of FAR 0.20 may be used 50% commercial and 50% residential, 25% commercial and 75% residential, 0% commercial and 100% residential, or any ratio in between, provided no more than 50% of the Net Floor Area above FAR 0.20 is used for non-residential purposes. In practice, this means that lots in the SAV district with only commercial uses are limited to an FAR of 0.20, whereas lots with at least 25% of total building Net Floor Area in residential use, including lots entirely in residential use, are allowed a maximum FAR of 0.40.

Similarly, the Table of Standard Dimensional Regulations states that the FAR limit in the West Acton Village (WAV) District is 0.40, and footnote (11) increases the FAR limit to 0.70 for lots with residential land uses. On lots with an FAR at or below 0.40 the land uses may be commercial, industrial, residential, or any combination thereof. Footnote (11) only affects the uses in that portion of a building's Net Floor Area that causes a lot's FAR to exceed 0.40. From the adoption of the WAV zoning provisions in 1994 until recently, the Town's Zoning Enforcement Officers have interpreted Footnote (11) to mean that only non-residential uses are limited on the portion of the FAR above 0.40, and that this limit is not more than half of the Net Floor Area in excess of FAR 0.40. As a result, the Net Floor Area in excess of FAR 0.40 may be used 50% commercial and 50% residential, 25% commercial and 75% residential, 0% commercial and 100% residential, or any ratio in between, provided no more than 50% of the Net Floor Area above FAR 0.40 is used for non-residential purposes. In practice, this means that lots in the WAV district with only commercial uses are limited to an FAR of 0.40, whereas lots with at least 21.43% of total building Net Floor Area in residential use, including lots entirely in residential use, are allowed a maximum FAR of 0.70.

The Town has applied the above interpretation in approving by right or by special permit residential development, conversion, or rehabilitation projects, particularly under footnote (13), which applies in the South Acton Village district.

The language in Footnotes (11) and (13) has however recently been subject to a different interpretation. This article will clarify the language of Footnotes (11) and (13) so that the future regulatory outcome will be consistent with the Town's historical application of Footnotes (11) and (13). The Town is in the process of developing and writing its new Comprehensive Plan (Acton

2020). It is the Town's hope and expectation that the Comprehensive Plan will offer clear guidance for future development in Acton's villages. The guidance may confirm past policies, set new directions, or do both. The Comprehensive Plan provides the appropriate avenue for affecting significant zoning changes.

Direct inquiries to: Roland Bartl, AICP, Planning Director
planning@acton-ma.gov / (978) 264-9636

Selectman assigned:

Recommendations: **Board of Selectmen** **Finance Committee** **Planning Board**

To see if the Town will vote to amend the zoning bylaw and map as follows:

A. Delete the 3rd bulleted paragraph in Section 2.2 and replace it with the following new paragraph:

- “Groundwater Protection District Map of the Town of Acton” as last amended consisting of a single sheet designated Map Number 3. See Section 4.3.2 of this Bylaw for a more detailed description of the Groundwater Protection District and the use of this map.

[Note – this paragraph currently reads:

“Groundwater Protection District Map of the Town of Acton” as last amended; Map Number 3A, consisting of a single sheet at a scale of 1" = 1200', and Map Number 3B, consisting of sheets 3B-1 through 3B-18 at a scale of 1" = 200'. See Section 4.3.2 of this Bylaw for a more detailed description of the Groundwater Protection District and the use of these maps.]

B. Delete Section 4.3.2.2 and replace it with:

4.3.2.2 ZONE 2 - The Recharge Protection Area – The area within which GROUNDWATER will move toward a pumping municipal well at the end of a 180 day period of no surficial recharge and full design capacity pumping of the well (the Massachusetts Department of Environmental Protection ZONE 2 boundary standard), as established in the "Groundwater Protection District Map of the Town of Acton, January 1989", as last amended. For the Clapp/Whitcomb and the School Street well fields, the Zone 2 delineation was prepared by Goldberg, Zoino and Associates (GZA) in the “Final Report - Aquifer Protection Zones, Town of Acton, Massachusetts, January 1989”. For the Conant I and II well fields, the ZONE 2 delineation was prepared by Dufresne-Henry, Inc. for the Acton Water District in the “Report on Conant II Pumping Test”, dated January 1993. For the Kennedy/Marshall well fields, the ZONE 2 delineation was prepared by Dufresne-Henry, Inc. for the Acton Water District in the “Report on Kennedy No.1 and Marshall Wellfields Zone II Delineation”, dated October 1996. For the Assabet well fields, the ZONE 2 delineation was prepared by Stantec Consulting for the Acton Water District in the report “Prolonged Pumping Test Assabet Well No. 3”, dated May 2008 and revised by Stantec Consulting in a letter report dated January 2009. All Zones 2 have been approved by the Massachusetts Department of Environmental Protection (DEP) as the State approved Zones 2.

[Note – Section 4.3.2.2 currently reads:

ZONE 2 - The Recharge Protection Area – The area within which GROUNDWATER will move toward a pumping municipal well at the end of a 180 day period of no surficial recharge and full design capacity pumping of the well (the Massachusetts Department of Environmental Protection ZONE 2 boundary standard), as established in the "Groundwater Protection District Map of the Town of Acton, January 1989", and amended in 1996. Except for the Conant I and II well fields, the Zone 2 delineation was prepared by Goldberg, Zoino and Associates (GZA) in the “Final Report - Aquifer Protection Zones, Town of Acton, Massachusetts, January 1989”. For the Conant I and II well fields the ZONE 2 delineation was prepared by Dufresne-Henry, Inc. for the Acton Water District in the “Report on Conant II Pumping Test”, dated January 1993, and has been approved by the Massachusetts Department of Environmental Protection (DEP) as the State approved Zone 2.]

C. Adopt a new Groundwater Protection District Map of the Town of Acton, Map Number 3, dated January 2011.

, or take any other action relative thereto.

SUMMARY

This article adopts: (1) new Groundwater Protection District Zone 2 delineations for the Kennedy/Marshall and Assabet well fields based on new data and delineations from the Acton Water District and approved by DEP; and (2) a new Groundwater Protection District zoning map that is compatible with the Town's Geographic Information System and showing land parcels in relation to the Groundwater Protection District Zones 1, 2, 3, and 4.

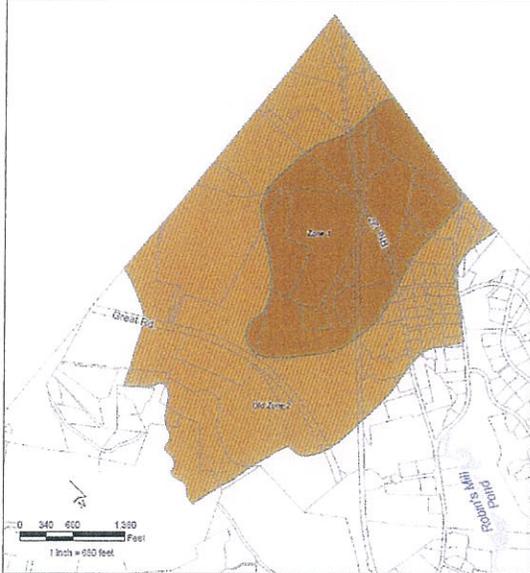
Areas currently in Zone 2 that the new delineation proposed by this article vacates would revert to Zone 3. The new map, and the reports used to develop the new Zone 2 delineations are available at the Planning Department in Town Hall. The Zone 2 delineations for the Kennedy/Marshall and Assabet well fields, as changed by this article, are shown below. The Zones 2 extend into neighboring Towns; however, Acton's Groundwater Protection District zoning cannot regulate land beyond the Town's borders.

PROPOSED CHANGES TO ZONE 2 DELINEATIONS

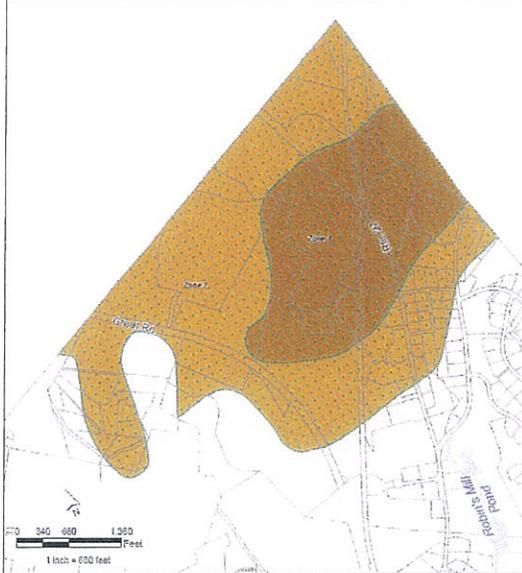


Kennedy/Marshall Well Field

Existing Zone 2

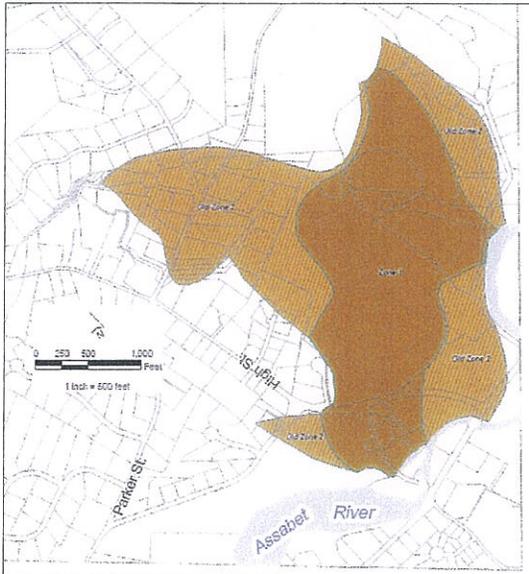


Proposed Zone 2

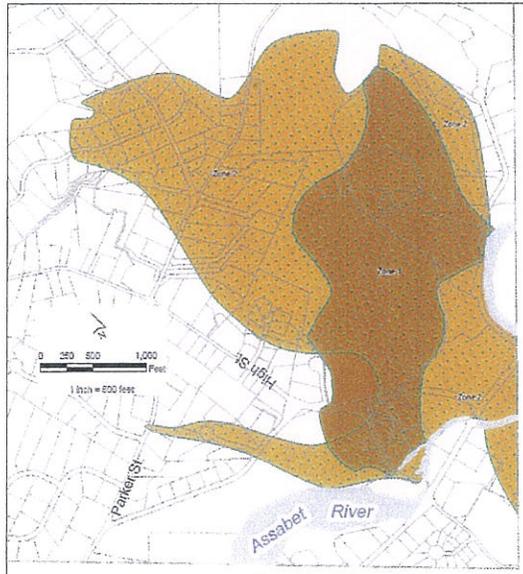


Assabet Well Field

Existing Zone 2



Proposed Zone 2



Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 264-9636
Selectman assigned:

Board of Selectmen:

Finance Committee:

Planning Board:

I:\planning\town meetings\2011 atm\gpd map changes.draft 5.doc