

ARTICLE # **AMEND ZONING BYLAW – NON CONFORMING LOTS remove percent**
(Two-thirds vote)

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

A. Non-Conforming Lots

1. In Section 8.1.3, delete the existing section and replace it with the following:

Reconstruction of Single- and Two-Family Dwellings on Nonconforming Lots – A STRUCTURE in single family residential USE on a nonconforming LOT may be razed and rebuilt for single family residential USE; and a STRUCTURE in two-family residential USE on a nonconforming LOT may be razed and rebuilt for two-family residential USE; in both cases subject to the following conditions and limitations:

- 8.1.3.1 The replacement STRUCTURE shall not exceed the FLOOR AREA RATIO on the LOT of the STRUCTURE that existed on the LOT before it was razed or damaged.
- 8.1.3.2 The replacement STRUCTURE shall meet all minimum yard and maximum height requirements of this Bylaw.
- 8.1.3.3 In the absence of architectural and plot plans for the existing structure to be razed, the FLOOR AREA RATIO shall be determined by using the information on record at the Town of Acton Assessor’s office.
- 8.1.3.4 Additions to the replacement STRUCTURE may be made after two years following the date of initial occupancy of the replacement STRUCTURE, if otherwise permissible.

[Note Section 8.1.3 currently reads:

Replacement of Single- and Two-Family Dwellings on Nonconforming Lots – A STRUCTURE in single family residential USE on a nonconforming LOT may be razed and rebuilt for single family residential USE; and a STRUCTURE in two-family residential USE on a nonconforming LOT may be razed and rebuilt for two-family residential USE; in both cases subject to the following conditions and limitations:

- 8.1.3.1 *The replacement STRUCTURE shall not exceed the FLOOR AREA RATIO on the LOT of the STRUCTURE that existed on the LOT before it was razed or damaged.*
- 8.1.3.2 *The replacement STRUCTURE shall meet all minimum yard and maximum height requirements of this Bylaw.*
- 8.1.3.3 *In the absence of architectural and plot plans for the existing structure to be razed, the FLOOR AREA RATIO shall be determined by using the information on record at the Town of Acton Assessor’s office.*
- 8.1.3.4 *Additions to the replacement STRUCTURE may be made after two years following the date of initial occupancy of the replacement STRUCTURE, if*

otherwise permissible and subject to any permits and special permits that may be required.]

2. In Section 8.1.4 – Extensions, alterations, or changes of Single and Two-Family Dwellings on Nonconforming Lots, delete the existing section and subsections in its entirety and replace it with the following:

One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements.

[Note Section 8.1.4 currently reads:

One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15% of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that the LOT became nonconforming, whichever is later.]

3. In Section 8.1.5, delete the existing section and replace it with the following:

In all other cases, the Board of Appeals may, by special permit, allow such reconstruction of a larger structure than otherwise allow under Section 8.1.3, where it determines either that the proposed modification does not increase the nonconformity or, if the proposed modification does increase the nonconformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.

[Note Section 8.1.5 currently reads:

In all other cases, the Board of Appeals may, by special permit, allow such reconstruction of, or extension, alteration or change to a single or two-family residential STRUCTURE on a nonconforming LOT, where it determines either that the proposed modification does not increase the nonconformity or, if the proposed modification does increase the nonconformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.]

, or take any other action relative thereto.

SUMMARY

The intent of this article is to streamline permitting processes for existing and proposed uses that are historically approved without much, if any public concern during the special permitting process, and to address those concerns through bylaw amendments as shown above. Uses

requiring a special permit are more discretionary than uses allowed by-right. Special permits require a public hearing which involves additional time, cost and uncertainty to the applicant as well as considerable bureaucratic cost and effort to the Town. This article allows all extensions, alterations or changes to a single or two-family dwelling on a non-conforming lot by-right. There are many lots in Acton that are non-conforming with respect to minimum frontage or area. Without some accommodation in the zoning bylaw, State statute would require that every extension, alteration, or change to a dwelling on a non-conforming lot is subject to a special permit. Currently, the zoning bylaw provides that a by-right extension, alteration or change to a single or two-family dwelling on a non-conforming lot is limited to a 15% increase to the size of the existing structure. Any increase above 15% requires a special permit. Since the adoption of the 15% threshold in April 2012 there have been 14 special permit applications under this bylaw section, and all were granted. This change would reduce regulatory burden on homeowners and allow for more effective allocation of Town resources.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631
Selectman assigned:

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>	<u>Planning Board</u> Recommended
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