

From: [Roland Bartl](#)
To: [Manager Department](#)
Cc: [Planning Department](#)
Subject: zoning articles for fall special town meeting
Date: Wednesday, August 03, 2016 3:44:57 PM
Attachments: [DRAFT ARTICLE - Non-Conforming Lots - ADDITIONS & REPLACEMENTS ON NONCONFORMING LOTS.pdf](#)
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In the event that the Selectmen decide to hold a special Town Meeting in the fall, the attached zoning articles are submitted for consideration for inclusion on the warrant. We will discuss them with the Planning Board at their next meeting on 8/16.

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Town of Acton
472 Main Street
Acton, MA 01720
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ARTICLE #
(Two-thirds vote)

**AMEND ZONING BYLAW – ADDITIONS AND REPLACEMENTS
ON NON CONFORMING LOTS**

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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ARTICLE ___ AMEND ZONING BYLAW – Accessory Apartments
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw as set forth herein:

A. In Section 3.8 - Accessory Use Regulations, amend Subsection 3.8.1.6 - Accessory Apartments as follows:

1. Delete paragraphs l) and m) and replace them with the following new paragraphs l) and m):
 - l) The apartment may be located within a detached BUILDING that is located on the same LOT as the BUILDING with the Principal DWELLING UNIT.
 - m) If a detached BUILDING on a LOT has been continuously in existence since before 2016 and has not been expanded or enlarged thereafter, an apartment in such a detached BUILDING may have a GROSS FLOOR AREA of up to 2000 square feet, not including attic or basement areas, and up to three bedrooms.
2. Insert new paragraphs n) and o) as follows:
 - n) A LOT containing a BUILDING with a Principal Unit and an Apartment within a detached BUILDING shall not be further divided resulting in the separation of the Principal Unit and the Apartment, unless both resulting LOTS and the BUILDINGS thereon meet all minimum area, FRONTAGE, width and yard requirements of the applicable zoning district.
 - o) The apartment in a detached BUILDING shall be installed on a permanent foundation.And renumber existing paragraph n) to become paragraph p)

[Note – Subsection 3.8.1.6 paragraphs l) and m) currently read:

l) The apartment may be located within a detached BUILDING that is located on the same LOT as the BUILDING with the Principal DWELLING UNIT, if the detached BUILDING has been continuously in existence since before 2010 and has not been expanded or enlarged thereafter. An apartment in such a detached BUILDING may have a GROSS FLOOR AREA of up to 2000 square feet, not including attic or basement areas, and up to three bedrooms. A LOT containing a BUILDING with a Principal Unit and an Apartment within a detached BUILDING shall not be further divided resulting in the separation of the Principal Unit and the Apartment, unless both resulting LOTS and the BUILDINGS thereon meet all minimum area, FRONTAGE, width and yard requirements of the applicable zoning district.

m) However, in the R-2, R-4, R-8, R8/4, R-10, and R-10/8 Districts an apartment in such a detached BUILDING shall only be allowed with a Special Permit from the Board of Appeals.]

B. In Section 3.3 - Residential Uses (beginning of section), paragraph b), insert after “19D;” the following phrase:

“Accessory apartment in a detached BUILDING as provided under Section 3.8.1.6; “;

And in paragraph c) delete the phrase “a single FAMILY dwelling with one Apartment in a detached BUILDING under Section 3.3.2.10 of this Bylaw;”.

[Note – Section 3.3. currently reads 3.3 Residential USES – Not more than one BUILDING for dwelling purposes shall be located upon a LOT, except:

- a) *in the following Districts: Village Districts (EAV, NAV, SAV, WAV); Residence A District (R-A); Residence AA District (R-AA);*
- b) *for the following USES: Nursing Home; Full Service Retirement Community; Assisted Living Residence as defined in this Bylaw or in MGL Ch. 19D; and*
- c) *where a special permit has been granted for the following: a Planned Conservation Residential Community (PCRC) under Section 9 of this Bylaw; an Independent SENIOR Residence under Section 9B of this Bylaw; an AFFORDABLE Housing Development under Section 4.4 of this Bylaw; a single FAMILY dwelling with one Apartment in a detached BUILDING under Section 3.3.2.10 of this Bylaw; a golf course under Section 3.5.17 of this bylaw.]*

, or take any other action relative thereto.

SUMMARY

This article would amend the Zoning Bylaw to allow Accessory Apartments as a by-right use in pre-existing and newly constructed detached buildings in all single-family residential zoning districts and on all lots with single-family use, subject to the existing standards for Accessory Apartments. As demonstrated by Acton 2020 Objective 7.4 and Action Items 5.1.1.1 and 7.4.1 and the Housing Production Plan Strategy 5.3, there is a need for a diverse range of affordable housing options and a desire to support the financial ability of all residents to stay in Acton for a lifetime. This amendment addresses that need by removing barriers to increasing the range of housing options available to residents.

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Selectman assigned:

Recommendations: Board of Selectmen Finance Committee Planning Board

ARTICLE #
(Two-thirds vote)

AMEND ZONING BYLAW –RESTAURANT SEATING

To see if the Town will vote to amend the Zoning Bylaw, Section 3 – TABLE OF PRINCIPAL USES by deleting footnote number (8) and replacing it with the following:

(8) “No Special Permit shall be required for a Restaurant with 65 seats or less.”

[Note – footnote (8) currently reads as follows: “No Special Permit shall be required for a Restaurant with 10 seats or less.”]

MOTION (if on consent)

Move that the Town adopt the zoning bylaw amendments as set forth in the Article.

SUMMARY

Currently the Zoning Bylaw allows restaurants with 10 or fewer seats by right. Restaurants with more require special permits. Since 2011, there have been 11 special permit requests from restaurants seeking more than 10 seats. All of these Special Permits were granted. The requests ranged from 18 to 200 seats, with an overall average of 67 seats. Based on this average, this article proposes to increase the by-right restaurant seat limit from 10 to 65. Under this rule, six of the previous 11 Special Permit requests would have been approved by right, leaving less than half the original amount to be granted by special permit. This change would reduce regulatory burden on applicants and allow for more effective allocation of Town resources. The passage of this amendment would further support the Key Implementation Strategies outlined in the Acton 2020 Comprehensive Plan, which detail Acton residents’ desire for increased dining options in vibrant community centers.

Direct inquiries to: Roland Bartl, AICP, Planning Director – (978) 929-6631
Selectman assigned:

Recommendations: Board of Selectmen Finance Committee Planning Board

ARTICLE ___ AMEND ZONING BYLAW –SIGN BYLAW
(Two-thirds vote)

To see if the Town will vote to amend changes throughout Section 7 (SIGNS AND ADVERTISING DEVICES) in the Zoning Bylaw.

In Section 7 – Parts of Subsections 7.7, 7.8, and 7.13 would be replaced or modified.

, or take any other action relative thereto.

SUMMARY
(This is a place-holder item)

The Planning Board approved over 40 Sign Special Permits since 2012. All sign special permit requests were approved as requested. Public attendance and comments at the public hearings are extremely rare; on occasion, business owners or tenants at the property express their support for the application. This change would reduce a regulatory burden on businesses and allow for more effective allocation of Town and Board resources.

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Selectman assigned

Recommendations: Board of Selectmen Finance Committee Planning Board

ARTICLE ___ AMEND ZONING BYLAW –OUTDOOR LIGHTING
(Two-thirds vote)

To see if the Town will vote to amend changes throughout Subsection 10.6 (Outdoor Lighting Regulations for Site Plan Special Permit) in the Zoning Bylaw.

Parts of Subsection 10.6 would be replaced or modified.

, or take any other action relative thereto.

SUMMARY
(This is a place-holder item)

The existing zoning regulations concerning outdoor lighting do not specifically address the use of light-emitting diode (LED) lights. At the time of adoption, LED lights were not widely used; today, they are the primary choice for outdoor lighting due to their energy efficiency and durability. This article seeks to update the Zoning Bylaw to address and better regulate the use of LED lighting.

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Selectman assigned

Recommendations: Board of Selectmen Finance Committee Planning Board