



Planning Department

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

May 7, 2009

Notice of Public Hearing on Proposed Zoning Changes

Please publish the following as a LEGAL NOTICE on *May 14, 2009* and *May 21, 2009*.

Acton Planning Board public hearing – June 2, 2009, 7:45 PM, Town Hall, Faulkner Room (204) – on proposed new dimensional and parking zoning regulations for child care facilities in residential zoning districts consistent with statutory exemptions in Massachusetts General Law, Ch. 40A, S. 3. Agricultural operations will not be impacted. Proposals are available at the Planning Dept. and Town Clerk.

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

ZONING ARTICLE _____
 (Two-thirds vote)

AMEND ZONING BYLAW – CHILD CARE FACILITIES IN RESIDENTIAL DISTRICTS

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

1. In Section 5 – Dimensional Regulations, delete subsection 5.3.9 and replace it with a new subsection 5.3.9 as follows:

5.3.9 Child Care Facilities in Residential Zoning Districts - In addition to the standards set forth in the Table of Standard Dimensional Regulations, the following standards shall apply to Child Care Facilities located in Residential Zoning Districts:

	R-2	R-4	R-8 & R-8/4	R10 & R-10/8	R-A & R-AA	VR
<i>Minimum OPEN SPACE not including outdoor play areas</i>	35%	35%	35%	35%	35%	35%
<i>Maximum FLOOR AREA RATIO</i>	0.10	0.07	0.05	0.03	0.20	0.20
<i>Maximum NET FLOOR AREA</i>	4000 sq. ft.	4000 sq. ft.	5000 sq. ft.	5000 sq. ft.	5000 sq. ft.	4000 sq. ft.

[Note: Subsection 5.3.9 currently reads as follows:

5.3.9 Child Care Facilities in Residential Districts – In addition to the standards set forth in the Table of Standard Dimensional Regulations, the following standards shall apply to child care facilities located in Residential Districts:

<i>Minimum OPEN SPACE not including outdoor play areas</i>	- 35 percent;
<i>Maximum FLOOR AREA RATIO</i>	- 0.10;
<i>Maximum NET FLOOR AREA</i>	- 1000 square feet.]

2. In Section 6.3 – Minimum Parking Space Requirements by USE, add a footnote (1) to section 6.3.1.5 – Child Care Facility and place the footnote at the bottom of the table after section 6.3.1.17 to as follows:

(1) The number of parking spaces for a Child Care Facility in a Residential Zoning Districts shall not exceed the minimum requirement.

, or take any other action relative thereto.

SUMMARY

This article adjusts dimensional controls for child care facilities in residential zoning districts. In 1990 the State Legislature amended M.G.L. Ch. 40A (the Zoning Act) with the following insertion in Section 3:

“No zoning ordinance or bylaw in any city or town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. As used in this paragraph, the term "child care facility"

shall mean a child care center or a school-aged child care program, as defined in section 1A of chapter 15D.”

Shortly after the enactment of the new State exemption the Town adopted a zoning amendment in accordance with the new State statute. Child care facilities are allowed in all Acton zoning districts (except ARC – Agriculture Conservation Recreation), and no special permit is required. In non-residential districts, reasonable dimensional regulations apply to child care facilities in the same manner as to any other allowed use. For residential districts, the early Acton Bylaw amendment envisioned an accessory use to a residence. As a result, dimensional regulations adopted for child care facilities in residential districts were fairly stringent.

The courts have since provided some guidance as to the meaning of “reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements”. Acton’s restrictions do not meet all the courts’ standards. The article as proposed will amend the dimensional regulations to reasonably accommodate stand-alone child care facilities in residential zoning districts, while also maintaining a reasonable and proportionate relationship to residential buildings in Acton’s residential zoning districts.

This article is not intended to facilitate or to thwart Next Generation’s recent child care facility proposal for a location at 348 Main Street, and this article by itself would do neither. However, Next Generation’s proposal strongly suggested that the Town needed to review its zoning regulations for child care facilities and consider any necessary amendments to ensure its zoning rules are reasonable and defensible.

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

