

ZONING BYLAW AMENDMENTS PROPOSED FOR OCTOBER 22, 2018 SPECIAL TOWN MEETING

NOTE: **Bolded Text** or **colored text** are the proposed amendments. The numbers before the underlined headings could be separate warrant articles, though the exact warrant article format is yet to be determined. A Planning Board public hearing on these amendments will be held on Tuesday, October 9, 2018 at 6:15 pm at the Ayer Town Hall.

1. ZONING AMENDMENT ONE: DEFINITIONS

HOME OCCUPATION: An occupation conducted as an accessory use in an owner-occupied dwelling or a detached accessory structure, by the resident owner or members of the owner's family. **Any home occupation that requires outdoor equipment to be stored in the yard must obtain a Special Permit from the ZBA, with the exception of Class II vehicles and one-ton pick-up trucks which are considered allowed by right.**

LOT, CORNER: A lot with two **or three** adjacent sides abutting upon streets or other public spaces.

LOT FRONTAGE: A lot line coinciding with the sideline of a street which provides both legal rights of vehicular access and physical vehicular access to the lot, said line to be measured continuously along a single street or along two (2) intersecting streets if their angle of intersection is greater than one hundred and twenty (120) degrees. Unless otherwise approved by the Planning Board, vehicular access to a building site on the lot shall be exclusively through the frontage of the lot. On a lot with frontage on more than one street, frontage on one street only may be used to satisfy the minimum lot frontage. **For setback purposes in the case of lots fronting on multiple streets, the front yard shall correspond to the street with the longest frontage, though vehicular access can be obtained via either the front or side yard lot lines.**

2. ZONING AMENDMENT TWO: SITE PLAN REVIEW

3.5 Site Plan Review

3.5.1 Applicability

- A. Site plan review by the Planning Board shall be required for the following uses or activities in all districts:
1. Construction, alteration or expansion of or change of use within a municipal, institutional, commercial, industrial, or multi-family structure;
 2. Construction or expansion of any parking lot for a municipal, institutional, commercial, industrial, or multi-family structure or purpose involving five (5) or more new or additional parking spaces;
 3. Clearing or grading more than 10,000 sq. ft. of land, unless specifically exempt under Section 9.6 of this Bylaw;
 4. Any use requiring a special permit, except that where a single-family or a two-family dwelling requires a special permit, site plan review shall not apply.

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5. All new commercial or industrial construction.

B. Exceptions.

1. Any activity, construction or installation conducted solely for the purpose of environmental remediation, approved by the United States Environmental Protection Agency (EPA) or the Massachusetts Department of Environmental Protection (DEP), shall not be subject to this Section 3.5.
2. New construction or alteration of a detached single-family dwelling or two-family dwelling shall not be subject to this Section 3.5 except when such alteration is associated with any use other than a single-family dwelling or two-family dwelling.
3. **Pre-existing, non-conforming, multi-family structures adding four (4) or fewer additional parking spaces.**

3. **ZONING AMENDMENT THREE** – CALCULATING THE NUMBER OF UNITS IN SITE PLANS IN SECTION 6.3 - Add new Section B and renumber accordingly.

B. Calculating the Number of Units in developments approved through Site Plan Review

4. Residential developments, whether single-family, duplex or multi-family, approved through Site Plan Review and not requiring Subdivision Approval under MGL Chapter 41 sec. 81K – 81GG and the provisions of this Bylaw, shall calculate the number of dwelling units allowed therein by the following process:
5. The maximum number of residential units in a development requiring Site Plan Review but not Subdivision approval is calculated by a formula based on the net area of the property. This calculation involves two steps; calculating the net developable area and then dividing that number by the allowable density of the applicable zoning district. These units are to be located in either single-family dwellings, two-family dwellings or multi-family dwellings as the case may be. To determine the net area, subtract the following from the total (gross) area of the site:
 - a. Half of the area of land with slopes of 20 percent or greater (2,000 sq.ft. or more of contiguous sloped area at least 10 feet in width); and
 - b. The total acreage of lakes, ponds, land subject to easements or restrictions prohibiting development, FEMA 100-year floodplains, and all freshwater wetlands as defined in G.L. c. 131, § 40, as delineated by an accredited wetlands specialist and approved by the Ayer Conservation Commission.
 - c. At the Planning Board's discretion, any of the information described above may be taken from current geographic information systems data available from the Massachusetts Department of Environmental Protection, Mass GIS, and other credible sources including delineations registered by the use of global positioning systems.
6. Unit Count Calculation. To determine the base maximum number of allowable residential dwelling units on the site, divide the net area calculated above by the

minimum lot area for the applicable zoning district. Fractional units of less than 0.5 shall be rounded down and 0.5 or more shall be rounded up. The number of units thereby calculated may not necessarily be realized due to the distribution of wetlands, ledge outcroppings and other physical constraints of the land as well as applicable requirements of the Ayer Zoning Bylaw, Site Plan Regulations, Board of Health Regulations, the Massachusetts Building Code and other requirements.

4. **ZONING AMENDMENT FOUR** – MISC. CHANGES TO SECTION 6.0

Corner Lots. On a corner lot, the yard fronting on each street shall meet the minimum front yard requirement of the applicable district. **For setback purposes in the case of lots fronting on multiple streets, the front yard shall correspond to the street with the longest frontage.**

Cornices and Eaves. Nothing herein shall prevent the projection of cornices or eaves not exceeding eighteen (18) inches in width, or of uncovered steps, ~~unroofed porches~~, or window sills into a required minimum yard or other open space.

Decks: Front, side and rear setbacks for attached decks shall be at least half the required setback distance from all property lines as for the principal structure on a lot.

Location of Accessory Structures

The minimum yard requirements for principal structures shall apply to accessory structures, both detached or attached to the principal structure, when used for human occupancy.

A detached accessory structure of one (1) story shall not be closer to the principal structure than ~~ten (10)~~ **five (5) feet**. A detached accessory structure of two (2) stories or more shall not be closer to the principal structure than fifteen (15) feet. No accessory structure shall be closer to the front lot line than the front building line of the principal building on the lot, **unless approved by the Building and Fire Departments.**

Accessory structure or structures shall not occupy more than twenty-five (25) percent of the required rear or side yard areas.

~~Accessory structures shall be no closer than five (5) feet to any side or rear lot line.~~

5. **ZONING AMENDMENT FIVE** – CHANGES TO SECTION 9.1.5 OFF-STREET PARKING DESIGN STANDARDS

9.1.5 C. 2: Except for parking within an enclosed structure, e.g., a parking garage, **or for existing multi-family dwellings**, no parking space shall be located within eight feet of a building wall or ten feet of a lot line. No access aisle, entrance or exit driveway shall be located within five feet of a building. Loading docks are exempt from this requirement.

6. **ZONING AMENDMENT SIX** – RESTORING ACCESSORY APARTMENTS TO THE ZONING BYLAW

1. Add the following definition to Section 2.0 **DEFINITIONS**:

ACCESSORY APARTMENT: a dwelling unit subordinate in size and accessory to a detached single-family dwelling, which may be located within an owner-occupied single-family dwelling or in a structure accessory thereto, such as in an attached or detached garage or barn.

2. Add the following to Section 5.3.2 and renumber subsequent sections accordingly:

C. **Accessory apartment**, subject to the following requirements:

1. An accessory apartment is allowed only by special permit from the Board of Appeals except in the Downtown Business and Mixed-Use Transitional District, where they are allowed by right;
2. There shall be not more than one accessory apartment on a lot;
3. The owners of the dwelling with the accessory apartment shall occupy one of the units as their principal residence, except for temporary absences of not more than six months. For the purposes of this Bylaw, "owners" shall be one or more individuals holding title to the property, and "principal residence" shall mean the owner's residence for voting and tax purposes;
4. The maximum gross floor area of the accessory apartment shall not exceed twenty-five (25) percent of the gross floor area of the existing dwelling or 750 sq. ft., whichever is greater;
5. The accessory apartment shall be designed so as to preserve the appearance of the existing single-family dwelling on the lot. Unless prohibited by the State Building Code, all stairways to second or third stories shall be enclosed within the exterior walls of the dwelling, and any new entrance shall be located on the side or in the rear of the dwelling; and
6. There shall be provided at least one off-street parking space for the accessory apartment in addition to parking for the principal dwelling. Off-street parking shall be located in a garage or carport, or in the driveway. In no event shall off-street parking for an accessory apartment be located within a required yard area.

3. Amend Appendix A, **Table of Use Regulations**, to incorporate Accessory Apartments as follows:

Under **RESIDENTIAL USES**, Accessory Apartments are allowed in the various zoning districts as follows:

A1: SPZ, A2: SPZ, GR: SPZ, DB: P, MUT: P, GB: SPZ, LI: N, I: N, HCS: N

Where SPZ = Special Permit needed from the Zoning Board of Appeals

P = Permitted Use and N = Not Permitted

For A1 and A2 only, restrict to 'blood relatives' as defined here: Occupancy of ADUs in the A1 and A2 Zoning Districts is limited to persons related by blood, marriage or adoption. This restriction does not apply to the other Zoning Districts in which ADU's are permitted.

7. **ZONING AMENDMENT SEVEN** – REFINING DEFINITION OF OPEN SPACE IN THE OSRD SECTION OF THE BYLAW

Add to Section 10.1.3 C.

C. Minimum Preserved Open Space. The Plan shall show that at least 50 percent of the tract will be preserved by a conservation restriction for a tract of land served by public sewer or 40 percent if the tract of land is not served by sewer. The proportion of jurisdictional wetlands and steep slopes, as defined below, which can be included in the minimum required preserved area of open space shall be directly proportional (1:1) to the percentage of such areas found in the parent parcel. For example, if jurisdictional wetlands and steep slopes comprise 25% of the parent parcel, then up to 25% of the required protected open space can contain such jurisdictional wetlands and steep slopes.

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8. ZONING AMENDMENT EIGHT – CHANGES TO SECTION 7.2 NONCONFORMING SINGLE-FAMILY AND TWO-FAMILY DWELLINGS

7.2 Nonconforming Single-Family and Two-Family Dwellings

A. In accordance with G.L. c. 40A, § 6, the Building Inspector may issue a building permit to allow an alteration, reconstruction, extension, or structural change to a lawfully pre-existing nonconforming single-family or two-family dwelling, provided that the alteration, reconstruction, extension, or structural change meets the following criteria:

1. On a lot that does not conform to the current minimum lot area requirement:

a. ~~Dwellings. Alteration, reconstruction, extension or structural change that complies with all current setback, lot coverage, and building height requirements. provided that such alteration, reconstruction, extension or structural change does not increase the footprint or height of the existing dwelling and does not include demolition of the existing dwelling, including the foundation.~~

b. Accessory Buildings and Structures.

i. ~~If the dwelling's gross floor area is under 1,500 square feet, the gross floor area of sheds and other outbuildings shall not exceed twenty (20) percent of the dwelling's gross floor area as determined by information on file in the Assessors' Office. Such twenty (20) percent shall be cumulative to include the gross floor area of existing sheds and other outbuildings.~~

ii. ~~In-ground swimming pools shall meet all current setback requirements.~~

2. On a lot that conforms to the minimum lot area requirement but is nonconforming due to insufficient frontage or setbacks:

a. ~~Dwellings. Alteration, reconstruction, extension or structural change that complies with all current setback, building coverage, and building height requirements. provided that such alteration, reconstruction, extension or structural change does not increase the footprint or height of the existing dwelling and does not include demolition of the existing dwelling, including the foundation.~~

b. Accessory Buildings and Structures.

- i. If the dwelling's gross floor area is under 1,500 square feet, the gross floor area of sheds and other outbuildings shall not exceed ~~ten~~ twenty (20) percent of the dwelling's gross floor area as determined by information on file in the Assessors' office. Said sheds and other outbuildings shall meet all current setback requirements and be no taller than the dwelling.
- ii. In-ground swimming pools shall meet all current setback requirements.