

ZONING AMENDMENT DISCUSSION

FOR 2022 BALLOT

STAFF REPORT

November 17, 2021

PURPOSE

While 2021 has continued the busy trend of 2020, keeping the Planning Board docket full, it is important to continue improving the Zoning Ordinance. While bigger picture changes are anticipated to be discussed following the completion of the Master Plan update, the list of amendment items for discussion below represent topics that have been discussed throughout the year in the context of various applications the Board has seen.

SCHEDULE

The following is the schedule for SB2 Town Meeting items related to zoning amendments:

- Thursday, January 6, 2022 – Last day to post notice for first public hearing.
- Monday, January 17, 2022 – Last day to hold first public hearing.
- Thursday, January 20, 2022 – Last day to post notice for final public hearing.
- Monday, January 31, 2022 – Last day to hold final public hearing.

If a zoning amendment changes during the first public hearing, a second one must be held. The public hearing process is finalized when the final form of the amendment has had a public hearing.

As you know, the Planning Board typically meets the 2nd and 4th Wednesdays of the month giving the following dates ahead with proposed agenda items to meet the schedule:

- November 17, 2021 – Identify which amendments to be developed.
- December 8, 2021 – Staff presents requested amendments.
- December 22, 2021 – First public hearing on amendments.
- January 12, 2022 – Second (or First) public hearing on amendments.
- January 26, 2022 – Final hearing on amendments, if needed.

ZONING TOPICS

The following are presented in no particular order for the Board's discussion. A prioritized list from the Zoning Board of Adjustment (ZBA) is at the end of this report.

REPEAL ARTICLE XIII - HOUSING FOR OLDER PERSONS

Hudson currently offers density bonuses for housing developments that only allow people 55+ or 62+ to reside. A zoning amendment can remove this provision. This would have NO effect on

existing age-restricted developments, this action would simply not allow new ones to be developed.

Since 1990 NH has accelerated from 28th oldest state (by median age) to 2nd oldest. A balanced population is a critical factor in the long-term sustainability of a community. Our current ordinance incentivizes imbalance. This is a state-wide phenomenon, in part owed to the dispersion of age-restricted ordinances throughout the state, but also probably in part due to the fact that New Hampshire is a great place to retire.

To be clear, the challenge is not the presence of older peoples, but the shortage of youth and the working population that keep local businesses/industry staffed and provide for future generations of Hudsonites. In the coming year, the Board may wish to consider developing an ordinance that provides for home ownership opportunities for first-time home buyers, young families, etc. Currently, the Sagamore Industrial Park is estimated to be 97% occupied, a great asset to Hudson's tax base. A housing plan that sustains this economic development success as well as the general long-term well-being of the community should be considered.

In the meantime, a first step to consider is to discontinue Article XIII.

REDUCE SETBACKS FOR ACCESSORY STRUCTURES AND DRIVEWAYS IN THE TR ZONE

As the Board has seen on several occasions this year, the setbacks in the Town Residential (TR) zone do not align with the existing character of these neighborhoods. These neighborhoods are among the oldest being built between the early 1900's up to the 1960's. They are typically smaller lots than those built in the latter half of the 20th century and the past two decades.

At the time of the Hudson's first Zoning Ordinance, the side and rear setbacks in the residential zone for buildings (primary structure such as a house) was 5 feet. There was some exemption status for accessory buildings. It appears that in the 1960's side and rear yard setbacks for all structures in all residential zones were 15 feet, as they remain today. Driveways don't seem to be addressed.

The Board may wish to consider proposing a reduction in side and rear yard setbacks for accessory structures to be more representative of the existing character of these neighborhoods. Separate from Zoning, the Planning Board may also amend the Driveway Regulations to allow driveways closer to the side yard setback with a public hearing at a regular meeting.

Another item to consider is front yard setbacks for all structures in the TR zones. As the Board saw in the case of the Melendy Street subdivision, while the new houses conform to the Zoning Ordinance, they are out of character with the rest of the neighborhood. A "relative" front yard setback may be something to consider. For instance, the front yard setback could be determined by taking the average of the existing front yard setbacks and establish a +/- 5 feet from that average.

This was also identified by the ZBA.

BUILDING HEIGHT IN INDUSTRIAL ZONES

Much attention has been drawn to the allowable building height permitted at 43 Steele Road and in the Sagamore Industrial Park where land abuts residential areas. The intent of increasing the building height by 12 feet was in response to the economic demand for high cube warehouses which require 50 feet in height. If the height was reduced, current and previous applications would not be affected. Seeing as no other parcel in the Sagamore Industrial Park directly abuts a residential neighborhood as 43 Steele Road and 161 Lowell Road do, reducing the building height would impact the future of the interior of the park. The park is currently 97% occupied, providing tax revenue that reduces the burden on residents.

Staff does not recommend a blanket reduction of building height. However the Board may wish to consider amending the building height allowance to exclude parcels that abut residential property, or establish a graduated height allowance based on distance from residential uses. This may also require removing Map 234 Lot 034 and Map 234 Lot 001 from the list of parcels designated for the height increase.

This amendment may avoid some of the concerns the Board is presently hearing.

DEFINITION: BUILDABLE AREA AND/OR AMEND 334-27.1.B

The term “buildable area” appears 6 times in the Zoning Ordinance but is not specifically defined. It is used to calculate minimum lot areas for subdivisions and densities for multi-family and age-restricted housing.

Currently, §334-27.1.B states:

- B. The minimum buildable lot area shall not contain wetlands, as defined by the Hudson Zoning Ordinance, shall be contiguous dry land and shall contain no slopes in excess of 25%. [**Added 3-9-1999; amended 3-4-2000**]

Staff recommends that the term “wetlands” be expanded to “lands within the wetland conservation overlay district” because it is not apparent today. Would you consider a proposed house lot that is entirely in the wetland buffer to be buildable? Without a Conditional Use Permit (CUP), it is not, and it would be difficult to meet the CUP criteria for a lot that has yet to be established.

Staff recommends creating a definition for Buildable Lot Area and amend 334-27.1.B to refer to that definition.

MIXED USE IN BUSINESS ZONES

Section 334-10 “Mixed or dual use on a lot” requires a Special Exception for mixed-use lots or building that include a residential use. A typical mixed-use building has a commercial use on the ground floor and residential on the floor(s) above. The Planning Board may wish to consider proposing that the Special Exception is not required in the Business (B) Zone. Site plan approval would still be required in the event a new building is proposed or if an existing building is converted.

TABLE OF USES

The table of permitted uses is slightly outdated and eventually needs to be modernized. For example, it may be prudent to provide definitions of the various types of land uses in the supply chain of e-commerce and then determine where/if they are appropriate.

The ZBA identified a revision to the use table as a priority, but with respect to consistency with other regulations and documents. Staff does not recommend adjusting the Zoning Ordinance to match these other documents, but the other way around. The Zoning Ordinance should be the prevailing document.

HOME OCCUPATION – DAYCARE

Identified by the ZBA, the Home Occupation Special Exception ordinance, §334-24, currently prohibits outdoor activity of home occupations while also recognizing that daycare is a customary home occupation. Subsection D states:

- D. The home occupation business shall be carried out within the residence and/or within a structure accessory to the residence, such as a garage.

State licensed daycares are required to have outdoor activities, therefore Staff recommends amending Subsection D to exempt daycare from this provision.

ACCESSORY DWELLING UNITS – SIZE

Article XIII A – Accessory Dwelling Units restricts ADU's to a maximum size of 750 square feet, which is the State-levied minimum requirement. Article XIII A only permits ADU's to be in the principal structure. Given the housing shortage and growing interest in generational housing, the Planning Board may wish to consider proposing a little more flexibility for ADU's. For instance, perhaps it is more appropriate to base the size of the ADU as a proportion of the principal dwelling unit while still providing a maximum and some basic massing requirements to avoid peculiar architecture. Also, the Board may consider allowing ADU's above detached garages, a classic example of an ADU. Staff believes the original intent may have been to avoid overcrowding, or inadvertently doubling the density of a neighborhood. This intent can remain intact while also introducing flexibility.

ZBA'S LIST

On the following page you will find the ZBA's list of Zoning Ordinance amendments ranked by priority. Those not addressed previously in this report are addressed below:

1. Split-zoned parcels – currently, split zoned parcels are interpreted literally (this piece of the lot is business, this piece is residential). The ZBA indicates a need for this to change. There are several ways to deal with split-zoned parcels: as we do today, “choose” one, the most prevalent zone rules, and others. Staff recommends studying this further before proposing any change as one simple line of text can have sweeping unintended and unexpected results.

2. Up-lit lighting on signage – to reduce light pollution and sight issues, the ordinance could be amended to prohibit upward facing lights. This could be added as Subsection N to §334-60, but also may require a passage to handle phasing out/bringing into conformity of existing conditions. Alternatively, a passage could be added that requires sign lighting to be dark sky compliant which would accomplish the goal given by the ZBA.
3. Classification of Route 111, Central St., Ferry St. & Burnham Rd. – §334-10 designate which Town roads are arterials and collectors. Arterials include NH 3A, NH 102, NH 111 and Dracut Road. However, in its designation of NH 111 it is described as Central Street. NH 111 is actually comprised of Ferry St., Burnham Rd. and Central St., and not all of Central St. is part of NH 111. A suggested amendment is to correct the description of NH 111 and adding Central Street to the list of arterials.
4. Delete references to Special Exception for cell towers – when the cell tower permitting process was changed from a Special Exception to a Conditional Use Permit, a few references to the SE process were mistakenly left behind, causing confusion for applicants. Staff will investigate as to the possibility of this being an administrative change, otherwise this is a simple amendment to delete the outdated references.
5. Setback of display parking – the ZBA has suggested this be moved to site plan regulations. At the moment Staff does not understand the intent or need for this amendment.

2022 AND BEYOND...

While the amendments proposed above may represent steps forward, the journey is far from complete. In 2022, Staff will be presenting an audit of the Land Use Regulations to identify areas of contradiction, redundancy and improvement. Also forthcoming is a Zoning Map audit that identifies errors and oddities in our current Zoning Map for review and correction. These audit activities are meant to set Hudson's land use policies on a solid foundation on which to build.

Critical to building on that foundation is the completion of the Master Plan update, which will identify goals for future land use policies to be codified in the Zoning Ordinance and Land Use Regulations. While some chapters are currently under review, it is imperative to prioritize the Master Plan update in the New Year, while concurrently undergoing the audit exercises.

From the Zoning Board of Adjustment

Priority-Rank	Code Section	Description	Reason
2.4	334-19	Address how split zoned properties are handled.	Clarification for Z.O. users: Property Owners, Lawyers, Engrs, and Town Staff
3	Table 334-21	Have all "use categories" match/coordinated with the Zoning Table of Uses, the Traffic impact fee descriptions, and the Parking calculations "use categories" in 275-8.	For consistant throughout all regulations
4	334-60 and 334-59 Definition: Exterior Illuminated Sign	Signs – prohibit "up-lit" lighting.	Light pollution, traffic distraction etc.
4.25	Article VI	Create a new Home Occupation S.E. for Daycares	as current and past Boards have "struggled" with the outdoor occupation prohibition and denied outdoor activities for Daycares. Yet the State requires a certain amount of outdoor area for Daycares.
4.5	334-27.1	TR zones to allow 10ft setback of sheds not > 100 sqft	Reduce code enforcement and varainces
5	334-11: A&B	Designate/define status/classification of: Rt 111/Central St / Ferry/Burnham: arterial/collector	Clarification for Z.O. users: Property Owners, Lawyers, Engrs, and Town Staff
5.5	Table 334-21 and 334-96.2	Delete the Z.O. mention of S.E. required for cell towers in Table of Uses.	Planning Board already does Site Plan Review/C.U.P.
5.5	334-21:A	Remove the section about display parking and distance to roadway 334-21: A. <i>"In all zoning districts all motor vehicle(s) displayed for sale shall be set back a minimum of 15 feet from the edge of roadway pavement."</i>	Belongs in Site Plan Reg's - Planning Board