Planning Board Proposed Zoning Bylaw Amendments for 2024 Annual Town Meeting

The Planning Board is proposing several zoning bylaw amendments for discussion at a public hearing on Wednesday, March 27 at 5:15 pm. The meeting will be in person at the town offices conference room (4 Sandy Lane) and also on Zoom. The amendments are summarized below. The public is encouraged to attend the public hearing to learn more and comment.

1. The addition of a Community Housing Bylaw (~ 171-24)

State law [Chapter 40B](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40B) currently allows developers in communities with less than 10% of their housing stock in affordable units listed on the state’s Subsidized Housing Inventory (SHI) to override most local zoning if at least 25% of the proposed units are SHI-eligible. Whately has less than 1% of its homes on the SHI, so 40B could be used here.

The proposed bylaw would allow flexibility like that available under 40B with regard to certain dimensional and other limits in Whately’s residential zoning if a minimum of 25% of the proposed units are SHI-eligible. However, it would also require a special permit from the Zoning Board of Appeals (ZBA) and site plan review by the Planning Board, thus ensuring local oversight and protections for the community. Were the town itself to acquire a parcel of land suitable for a modest housing project, the proposed bylaw would grant the town the same degree of development flexibility, also with local oversight.

The bylaw does not grant any new authority to landowners, nor does it remove any. It simply transfers the approval process from the state to the town. It makes the application process less burdensome while giving the town a voice in what is or isn’t built. This helps promote the availability of Whately’s workforce housing and housing diversity while ensuring compatibility with the town’s character.

The Housing Committee supports this new bylaw.

The text of the bylaw is available [here](https://www.whately.org/sites/g/files/vyhlif5211/f/agendas/04_2024-03-02_community_housing_bylaw_proposal.docx).

Information on community housing income eligibility and rents is available [here](https://www.whately.org/planning-board/files/what-community-housing).

1. Deletion of Article VIII, Growth Control

This section, adopted in 1991, imposes limits on the number of new single-family building permits that may be issued in any year, and on the number of units of multi-family units that may be permitted in a year. The state Supreme Court has since ruled that bylaws of this type are unconstitutional unless they are effective only for specific time periods for the purposes of either planning for the excessive growth or addressing municipal capacity problems. As Whately has just completed both an Open Space plan and a Housing Production Plan and has no major capacity problems like schools or water systems, the Planning Board believes that imposing a time limit for growth control isn’t defensible.

Because Article VIII is not enforceable, the Board recommends that it be removed. The Housing Committee supports this recommendation.

The text of Article VIII is available [here](https://www.whately.org/sites/g/files/vyhlif5211/f/agendas/03_2024-03-02_elimination_of_article_viii_growth_control.docx).

The text of the court case invalidating it is available [here](https://www.whately.org/planning-board/files/zuckerman-vs-hadley).

1. Amendments to ~ 171-28.4 C Aquifer Protection District and a revised Zoning Map reflecting those amendments

At last year’s annual town meeting, the town approved changes to the Aquifer Protection District bylaw removing most references to the defunct Whately Water District. However, the Planning Board at that time lacked sufficient information to recommend removing the zoning districts protecting the Water District Wells from the map. This information has been obtained and the proposed bylaw change would remove references to these zones from the bylaw text and the zones themselves from the Whately Zoning Map. Note that a portion of the Water Department’s aquifer protection zone that underlay a portion of the District zone, is restored by the proposed change.

The Water Commissioners support these changes.

The text of the Aquifer Protection District bylaw change is found [here](https://www.whately.org/sites/g/files/vyhlif5211/f/agendas/01_2024-03-02_proposed_revisions_related_to_aquifer_protection_district.docx).

The proposed Zoning Bylaw Map is found [here](https://www.whately.org/sites/g/files/vyhlif5211/f/agendas/02_proposed_whately_zoning_map_2024_date_tbd.pdf).

1. Proposed changes to ˜171-10, Table of Dimensional Requirements.

The Planning Board is proposing to add two footnotes to the Agricultural/Residential section of the Dimensional Requirements table to clarify the treatment of a lot with portions in both Agricultural Residential (Ag/Res) 1 and 2. When the proposed use lies in Ag/Res 2 and the frontage is in Ag/Res 1, the frontage requirements of Ag/Res 1 apply and the area in Ag/Res 1 may count towards the minimum square footage required for Ag/Res 2.

The Board believes this was the original intent of the Planning Board when the two districts were created in 2010.

**NOTE: Text in** *italics underlined* **font is proposed as an addition to the Zoning Bylaw**

### ~ 171-10. Table of Dimensional Requirements.

A. The Table of Dimensional Requirements shall be as follows:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | Minimum Lot Area  (square feet) | Minimum Frontage  (feet) | Front yard  (feet) | Rear/Side Yard \*  (feet) | Maximum Lot Coverage  (percent) |
| **Agricultural/Residential District 1:** |  |  |  |  |  |
| Lots with Public Water | 40,000 | 175 | 50 | 20 | 30 |
| Lots without Public Water | 60,000 | 200 | 50 | 20 | 30 |
| **Agriculture/Residential**  **District 2**: [added ATM 4-27-2010, Art 11] |  |  |  |  |  |
| Lots with Public Water | 80,000 *\*\** | 200 *\*\*\** | 50 | 20 | 30 |
| Lots without Public Water | 120,000 *\*\** | 300 *\*\*\** | 50 | 20 | 30 |
| **Commercial and Industrial Districts** |  |  |  |  |  |
| Commercial and Industrial uses | 60,000 | 200 | 50 | 20 | 50 |
| Noncommercial/Nonindustrial Uses |  |  |  |  |  |
| Lots with Public Water | 40,000 | 175 | 50 | 20 | 30 |
| Lots without Public Water | 60,000 | 200 | 50 | 20 | 30 |
| Planned Industrial District (see 171-28.1) [Added 2-5-1991 STM, Art. 3] |  |  |  |  |  |

*\* Fifty (50) feet side and/or rear yards in new residential subdivisions adjacent to or nearby to farmland may be required to provide a buffer between the residential lot lines and farmland to minimize conflicts between residential and farming activities.*

*\*\* Where a lot has Lot Frontage in Agricultural/Residential 1, the area within Agricultural/Residential 1 may count toward the Minimum Lot Area.*

*\*\*\* Where the Lot Frontage is in Agricultural/Residential 1, the minimum requirements of that zoning district apply.*