



**PLANNING BOARD**

**Report to Town Meeting**

**Article 29. Zoning – Cluster Subdivision Issues (Planning Board)**

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To see if the Town will amend Sections 4.325 and 3.3211, of the Zoning Bylaw, as follows:

~ SEE WARRANT ~

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Recommendation

The Planning Board voted 7-0-0, with 0 members absent, to recommend that Town Meeting adopt Article 29.

Background and Purpose

This article arose from the Planning Board's experience conducting the public hearing for a large cluster subdivision application in 2013-2014, which exposed a number of shortcomings in both the Zoning Bylaw and the subdivision regulations. This article attempts to clarify several of the more problematic zoning issues in a way that reflects the community's wishes and expectations with regard to cluster subdivisions. Specifically, it addresses what kinds of duplexes are allowed by right in a cluster subdivision; by how much certain dimensional standards may be modified to help enable a cluster subdivision; and how the calculation of the number of building lots allowed in a cluster subdivision should be framed. The Planning Board is proposing this set of amendments so that future cluster subdivision permitting will be more straightforward and less anxiety-inducing for the general public.

Mechanics

There are three parts to this article, each of which can be considered independently. None of the parts relies on any of the others to be effective.

The Cluster Subdivision Development Method is governed by Section 4.3 of Article 4 of the Zoning Bylaw.

*Duplexes*

A cluster subdivision is a development method that allows homes to be built closer together and on smaller lots than would be possible according to the underlying zoning in a standard subdivision. This results in a greater amount of open space remaining undisturbed and

permanently protected, for which reason it has long been the preferred development method for new subdivisions in Amherst. One of the ways this development method is enabled is by allowing a certain number of duplexes by right when part of a subdivision plan, even in zones where they would otherwise require a special permit.

However, the cluster subdivision rules were written many years ago, and Amherst has since split the duplex use category into three distinct uses: owner-occupied duplexes, which require owner-occupancy of at least one of the units and retain the traditional mix of permitting standards (by right with site plan review in denser residential zones and by special permit in less-dense residential zones); non-owner occupied duplexes, which require a special permit in all residential zones; and affordable duplexes, which require at least one of the units to be affordable to a household qualifying as low-income according to state standards, and are allowed by right with site plan review in all residential zones.

The cluster subdivision rules do not currently make any distinction about which kinds of duplex are allowed, and the applicant in the recent project was proposing a significant number of non-owner-occupied duplexes in an area where even an owner-occupied duplex requires a special permit when not part of a subdivision. Since the town had recently decided to require *any* new non-owner-occupied duplex to secure a special permit, this created tension with the cluster subdivision rules.

Therefore, the Planning Board is proposing that only owner-occupied and affordable duplexes be allowed by right in a cluster subdivision. Each non-owner-occupied duplex would require a special permit. This would make duplex permitting in cluster subdivisions more closely aligned with the community's expectations about owner-occupancy while still providing for the somewhat more dense housing standards characteristic of a cluster subdivision.

#### *Modification of dimensions*

Another way that the cluster subdivision rules promote increased density (in part of the development in exchange for protection of open space in other parts of the development) is by automatically reducing some of the dimensional standards in effect for building lots within the subdivision compared to those in place for the underlying zone. For instance, the minimum lot area is reduced from the standard requirement of 12,000-80,000 square feet (depending on zone) to 6,000-25,000 square feet (depending on zone), and minimum frontage is reduced from 100-250 feet to 50-100 feet. The other dimensions affected are front, side, and rear setback minimums.

Some of those dimensions may be further reduced by the Planning Board if requested as part of the cluster subdivision plan, and in the recent project a number of lots were proposed with smaller frontages than the already reduced cluster subdivision minimum -- including several with significantly less frontage. These frontage reductions could have been approved by the Planning Board according to the rules laid out in the Zoning Bylaw, but the Board was uncomfortable about the open-endedness of its authority in this particular circumstance.

Therefore, the Planning Board is proposing that footnote *k*, the mechanism by which certain dimensional standards that are automatically modified in a cluster subdivision may be further modified, be amended to restrict that modification such that an adjusted requirement may be no

less than eighty percent of the already reduced requirement.

Additionally, there is already a provision within the cluster subdivision rules that restricts the application of footnote *k* on frontage size to no more than fifty percent of the lots. This article would move that language (intact) to footnote *k* for the purpose of ease of use.

#### *Yield plan*

The number of dwelling units and building lots in a cluster subdivision cannot be more than would be allowed in a standard subdivision at the same location, a number that is determined in two ways according to the current Bylaw: by a density calculation based on the area of the parcel to be developed, and by counting the number of lots that "would be approved for a standard subdivision," which implies the creation of a map, commonly known as a "yield plan." The current Bylaw does not actually state the requirements for such a "yield plan" or provide guidelines for creating one. The yield plan for the recent project appeared to include a number of lots that may not have been buildable because of wetlands and zoning restrictions, but the language of the Bylaw is vague about whether they should have been counted.

Therefore, the Planning Board is proposing to add a definition for "yield plan" to the Zoning Bylaw and then explicitly refer to it in the cluster subdivision rules. The new definition describes the elements that should be included on a yield plan map -- road layout, property lines, building envelopes -- and calls for a conceptual but realistic response to existing topography, wetlands, etc. The lots shown on the yield plan must not require a modification or waiver in order to be "buildable lots" (as defined elsewhere in the Bylaw).

#### Benefits

This amendment clarifies some of the provisions in the Zoning Bylaw related to cluster subdivision development that have proved especially difficult, aligning standards with the general intent of the Zoning Bylaw and with the community's expectations with regard to form and pattern of use in this type of development method. The Planning Board believes that it will result in a clearer process for review of future cluster subdivision applications and more predictable outcomes, hopefully reducing contention, at least a little, over potential future cluster subdivision proposals.

#### Risks

Because it limits design and use options compared to existing language and imposes stricter yield plan requirements, this amendment might make it a little more difficult to develop a cluster subdivision, which in turn increases the chance that a standard subdivision would be proposed instead, contrary to the town's preferences. A standard subdivision would mean the loss of some open space that could be preserved by a cluster subdivision. In some cases, a standard subdivision might be infeasible for one reason or another while a cluster subdivision would be perfectly acceptable -- but if the prospective developer is discouraged from pursuing a cluster subdivision because of this amendment, it would have the effect of reducing options for needed new housing in town. The Planning Board considers these risks to be slight, and worth the anticipated benefits.

Process and Public Hearing

The Zoning Subcommittee and the Planning Board produced this article over weeks of discussion and revision this past winter during which significant public input was received. Several possible adjustments other than the three that were eventually chosen were initially considered but abandoned in order to bring as streamlined a proposal as possible to Town Meeting while still fulfilling the objective. A public hearing on this article was held by the Planning Board on March 16, 2016. No additional input was received at that time.

The Planning Board voted 7-0-0, with 0 members absent, to recommend that Town Meeting adopt this article.