

TOWN OF WAYLAND - TOWN CLERK'S OFFICE
NOTICE OF MEETINGS OF TOWN BOARDS/COMMITTEES/COMMISSIONS

Posted in accordance with the provisions of the Open Meeting Law
PLEASE TYPE OR PRINT LEGIBLY

NAME OF BOARD/COMM: **Wayland Planning Board**

FILED BY: Sarkis Sarkisian, Town Planner

DATE OF MEETING: December 8, 2015

TIME OF MEETING: 7:30 P.M.

PLACE OF MEETING: Town Building, 41 Cochituate Road

RECEIVED
TOWN OF WAYLAND
TOWN CLERK
2015 NOV 23 AM 8:19

NOTE: Notices and agendas are to be posted at least 48 hours in advance of the meetings excluding Saturdays, Sundays, and legal holidays. Please keep in mind the Town Clerk's business hours of operation and make the necessary arrangements to be sure this notice is received and stamped in an adequate amount of time.

AGENDA

Note: Items may not be discussed in the order listed or at the specific time estimated. Times are fluid given unpredictable duration of time.

7:30 P.M. Open Meeting Comment/Correspondence/ Matters Not Reasonably Anticipated By the Chair 48 Hours In Advance Of The Meeting

7:35 P.M. Public Hearing Zoning By-Law Amendments

LEGAL NOTICE
TOWN OF WAYLAND
PLANNING BOARD

PUBLIC HEARING RE: ZONING BY-LAW AMENDMENTS

The Wayland Planning Board will hold a public hearing on Tuesday, December 8, 2015 at 7:35 p.m. in the Planning Board Office, Wayland Town Building, 41 Cochituate Road, Wayland, Massachusetts, 01778. The subject of this hearing will be proposed amendments to the Wayland Zoning Bylaw, which will be considered at the 2016 Wayland Spring Annual Town Meeting. The text of these amendments and maps can be viewed at the

Planning Board Office and outside the Building Department Office at the Wayland Town Building (8:30 AM to 4:00 PM during normal work days), Reasonable accommodations and audio-visual aids and services will be available upon request. The proposed amendments and subject matter to the Wayland Zoning Bylaws are summarized as follows:

1. Replace sections in all commercial districts regarding the construction/location of sidewalks in the right of way.
2. Insert a new section regarding landscaping in parking areas abutting residential property.
3. New definition regarding Home Occupation Customary (customary home occupation)
4. NONCONFORMING STRUCTURES AND USES Any building, which includes residential structures, or use lawfully in existence or lawfully begun or as to which a building or special permit has been issued before the first publication of notice of public hearing on any provision of this Zoning Bylaw, or any amendment thereto, required by MGL c. 40A, § 5, may be continued or completed although such building, structure, or use does not conform to the terms of said provision or amendment, subject, conditions.
5. Apply a Floor Area ratio to undersized residential lots.
6. Conservation Cluster Developments regarding, open space requirements, total number of dwelling units on the tract of land and affordable units required.
7. New definition regarding Building Height.
8. New requirements for Assisted/Independent Living, Nursing Homes in residential districts.
9. New requirements for Sales of used motor vehicles by owners of service stations as an accessory use.

8:55 P.M. Approve minutes for November November3, 2015 and November 16, 2015

9:00 P.M. Adjourn

ARTICLE FOR ANNUAL TOWN MEETING

SPONSOR: Planning Board DATE RECEIVED: December 8, 2015
CONTACT PERSON: Sarkis Sarkisian Town Planner TELEPHONE/Day: 508-358-3778
TELEPHONE/Evening: _____

BOARD VOTE: _____ DATE OF VOTE: _____
TITLE: Sidewalk Construction in Roadside, Business Districts A and B, Light Manufacturing and Limited Commercial of the Zoning Bylaw

COST: _____ NO COST COST ESTIMATE AVAILABLE ON: _____

TEXT: Article 1

To determine whether the Town will vote to amend Chapter 198 of the code of the Town of Wayland, the Town's Zoning Bylaw, by making the following revisions:

To replace the following sections of the Zoning Bylaw with the following new paragraph:

In the event of the construction, reconstruction or substantial alteration of any premises that are used or intended to be used, in whole or in part, for any industry, trade, manufacturing or commercial purposes, a pedestrian sidewalk shall be constructed as a part of such construction, reconstruction or substantial alteration, such sidewalk to be a minimum of five feet in width along and within the entire public right of way of the lot. The sidewalk shall be constructed of concrete and have at least six inches in height of raised granite curbing. The Special Permit Granting Authority and the Site Plan Approval Authority shall determine the sidewalk's final location including materials. The sidewalk location shall be such as to join in a reasonable manner existing or potential sidewalks on or adjacent to abutting land. Pedestrian walkways shall also be required and integrated to the maximum extent possible, into the interior and/or perimeter landscaping of the parking lots. [Amended 5-5-1999 STM by Art. 11]

1002.1.7. In the event of the construction, reconstruction or substantial alteration of any premises that are used or intended to be used, in whole or in part, for any industry, trade, manufacturing or commercial purposes, a paved pedestrian sidewalk shall be constructed as a part of such construction, reconstruction or substantial alteration, such sidewalk to be no less than five feet in width and set back no less than four feet from the street lot line and to be constructed the full width of the lot, except where driveways exist, and separated from the remainder of the lot with a four-foot strip to be maintained as a landscaped area. The sidewalk location shall be such as to join in a reasonable manner existing or potential sidewalks on abutting land. [Amended 5-5-1999 STM by Art. 11]

§ 198-1106. Curbs and sidewalks

.[Amended 4-28-1975 ATM by Art. 26; 4-28-1986 ATM by Art. 27]

1106.1. In both Business Districts A and B, in the event of the construction, reconstruction or substantial alteration of any premises that are used, or intended to be used, in whole or in part, for any industry, trade, manufacturing or commercial purpose, there shall be constructed as part of such construction, reconstruction or substantial alteration a raised granite curb at least six inches in height along the edge of the street, except at approved driveway openings, and a paved pedestrian sidewalk no less than five feet in width set back no less than four feet from the street lot line and covering the entire width of the lot, except where driveways exist, the sidewalk to be separated from the remainder of the lot with a strip four feet wide in which shall be maintained in good condition suitable evergreen shrubs or other landscaping approved by the ZBA. The strip between the sidewalk and the street shall be maintained in good condition as a grass area. The sidewalk location shall be such as to join in a reasonable manner existing or potential sidewalks on abutting land.

1302.1. In the event of the construction, reconstruction or substantial alteration of any premises that are used or intended to be used, in whole or part, for any industry, trade, manufacturing or commercial purposes, a paved pedestrian sidewalk shall be constructed as a part of such construction, reconstruction or substantial alteration, such sidewalk to be no less than five feet in width and set back no less than four feet from the street property line and to be constructed the full width of the lot, except where driveways exist, and separated from the remainder of the lot with a four-foot strip to be maintained as a landscaped area. The sidewalk location shall be such as to join in a reasonable manner existing or potential sidewalks on abutting land. [Amended 5-5-1999 STM by Art. 11]

1406.8. In the event of the construction, reconstruction or substantial alteration on any site that is used or intended to be used, in whole or in part, for the purpose allowed under this article, paved pedestrian sidewalks shall be constructed as a part of such construction, reconstruction or substantial alteration. Such sidewalks shall be no less than five feet in width, shall be set back no less than four feet from street lot lines and shall be separated from the remainder of the site by a four-foot landscaped strip. Sidewalks shall reasonably join existing sidewalks or shall be capable of reasonably joining potential sidewalks, internally and on abutting land. [Amended 5-5-1999 STM by Art. 11]

ARTICLE FOR ANNUAL TOWN MEETING

SPONSOR: Planning Board DATE RECEIVED: December 8, 2015
CONTACT PERSON: Sarkis Sarkisian Town Planner TELEPHONE/Day: 508-358-3778
TELEPHONE/Evening: _____
BOARD VOTE: _____ DATE OF VOTE: _____
TITLE: Landscaping in parking areas Zoning Bylaw
COST: _____ NO COST: _____ COST ESTIMATE AVAILABLE ON: _____

TEXT: Article 2.

To determine whether the Town will vote to amend Chapter 198 of the code of the Town of Wayland, the Town's Zoning Bylaw, by making the following revisions:

Replace section 506.8.1 to read as follows:

506.8. Landscaping in parking areas.

506.8.1. A continuous 10' landscape strip shall be provided for parking lots which are accessory to non-residential uses within or immediately adjacent to residential districts. This strip shall be adequately landscaped and maintained with natural and living materials so as to form an effective year round screen from adjacent residential properties in said residential districts. The Special Permit Granting Authority or the Site Plan Approval Authority may also require a tight fence.

Existing language below

506.8. Landscaping in parking areas.

506.8.1. Parking lots immediately adjacent to a residence district shall be adequately screened year-round from view from said residence district by trees, hedges or a tight fence.

Article 3 ZONING BYLAW AMENDMENT / HOME OCCUPATION

1. §104 (definition)

HOME OCCUPATION, CUSTOMARY (CUSTOMARY HOME OCCUPATION)

Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit or an accessory structure. ~~Said occupation to include but are not necessarily limited to the following: sale of antiques; dressmaking, sewing and tailoring; letting of rooms; telephone solicitation work; tutoring; home crafts; studio for artist or craftsman; office for doctor, dentist, attorney, real estate agent, insurance agent, accountant, stock broker, engineer, architect, landscape architect, musician, writer, data programming, sales representative; and tradesperson, such as electrician, plumber, and carpenter. Where customary home occupations are permitted by the Table of Accessory Uses § 198-804, no dwelling or accessory structure so used shall be reconstructed or enlarged for such purposes unless specifically permitted under the provisions of § 198-203. No change, extension or alteration of any portion of a building that is used for Customary Home Occupation shall be allowed except by a special permit under Section 198-203 granted by the Planning Board as special permit granting authority, after making the findings set forth in said Section 198-203.~~

[Added 4-30-2001 ATM by Art. 25; amended 4-7-2011 ATM by Art. 19]

2. §901.1.1 and 901.1.2 (regulation in Res. zoning district)

901.1.1.

A customary home occupation of a resident owner, or a resident tenant with the owner's permission, shall be permitted as a matter of right in those zoning districts specifically referenced in the Table of Accessory Uses, § 198-804, provided that all of the following conditions are met:

[Amended 5-4-1994 ATM by Art. 23; 4-30-2001 ATM by Art. 25]

901.1.1.1.

The customary home occupation occupies no more than 25% of the gross floor area or 500 square feet, whichever is less, of the dwelling unit or accessory building on the lot.

901.1.1.2.

There are no employees;

901.1.1.3.

No business is conducted on the lot with any client or customer physically present;

901.1.1.4.

There are no signs or other external evidence of nonresidential use; and

901.1.1.5.

No hazard or nuisance, including offensive noise, vibrations, smoke, dust or other particulate matter, odors, heat, glare, humidity, and noxious fumes, shall be created to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists.

901.1.2.

A customary home occupation of a resident owner, or a resident tenant with the owner's permission, may be permitted by issuance of a special permit from the Zoning Board of Appeals in those zoning districts specifically referenced in the Table of Accessory Uses, § 198-804, provided that all of the following conditions are met:

[Added 4-30-2001 ATM Art. 25]

901.1.2.1.

The use of the dwelling unit, or an accessory structure, by the resident for business is incidental and subordinate to its use for residential purposes and occupies no more than 25% of the gross floor area of the dwelling unit or 500 square feet, whichever is less, within the dwelling unit or accessory structure on the premises;

[Amended 5-6-2004 ATM by Art. 21]

901.1.2.2.

No more than one nonresident employee shall be permitted on the lot;

901.1.2.3.

There is no change in the outside appearance of the building, structure, or lot or any visible or audible evidence detectable from the property line of the conduct of such business except that one sign not larger than two square feet in area bearing only the name of the practitioner and occupation shall be permitted (words only). The sign shall be flush-mounted to the dwelling unit and shall not be illuminated.

901.1.2.4.

; The Customary Home Occupation shall not generate more than 150% of the total number of vehicle trips that the principal residential use of the lot generates on a daily basis.

~~Traffic, including traffic by commercial delivery vehicles, shall not be generated in greater volumes than would normally be anticipated in a residential neighborhood;~~

901.1.2.5.

No hazard or nuisance, including offensive noise, smoke, dust, odors, heat, glare, noxious fumes or vibrations, shall be created to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists;

901.1.2.6.

There shall be no display of goods or outside storage;

901.1.2.7.

Parking for the customary home occupation shall be provided on the lot.

Article 4

ZONING BYLAW AMENDMENT / NONCONFORMING STRUCTURES AND USES

September 8, 2015

401.1.

Any building, structure, or use lawfully in existence or lawfully begun or as to which a building or special permit has been issued before the first publication of notice of public hearing on any provision of this Zoning Bylaw, or any amendment thereto, required by MGL c. 40A, § 5, may be continued or completed although such building, structure, or use does not conform to the terms of said provision or amendment, subject, however, to the following:

401.1.1.

Construction or operations under a building or special permit shall conform to any subsequent provision of this Zoning Bylaw, or any amendment thereto, unless the use or construction is commenced within a period of not more than six months after the issuance of the building or special permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

401.1.2.

Preexisting nonconforming buildings, structures, or uses may be changed, extended, reconstructed or altered by a special permit issued by the ZBA pursuant to the provisions of § 198-201 and § 198-203 of this Zoning Bylaw, provided that no such change, extension, reconstruction or alteration shall be permitted unless there is also a finding by the ZBA that such change, extension or alteration ~~shall~~ is not be substantially more detrimental than the existing nonconforming building, structure or use to the neighborhood; provided, however, that the Planning Board shall serve as the special permit granting authority for changes, extensions, reconstructions and/or alterations to nonconforming buildings, structures, and uses in the Senior and Family Housing Overlay District pursuant to Article 21 of this Zoning Bylaw; and further provided, however, that a single- or two-family dwelling may be changed, extended, reconstructed or altered so long as the change, extension or alteration does not increase the nonconforming nature of the dwelling. The Building Commissioner shall determine in the first instance if a change, extension, reconstruction or alteration to a single- or two-family dwelling increases the nonconforming nature of the structure. Examples of alterations that would not constitute an increase in the nonconforming nature of a dwelling include the addition of a dormer; the addition, or enclosure, of a porch or sunroom; the addition of a one-story garage for no more than two motor vehicles; the conversion of a one-story garage for one motor vehicle to a one-story garage for two motor vehicles; and the addition of small-scale, proportional storage structures, such as sheds used to store gardening and lawn equipment, or sheds used to house swimming pool heaters and equipment.

[Amended 4-28-1997 STM by Art. 5; 5-14-1998 ATM by Art. 45]

401.1.3.

A building for one or two dwelling units may be the subject of alteration, reconstruction, extension or structural change without the necessity of a special permit, provided that the following conditions are met:

[Amended 5-4-1994 ATM by Art. 24]

401.1.3.1.

Such alteration, reconstruction, extension or structural change shall comply with this Zoning Bylaw; and

401.1.3.2.

Such alteration, reconstruction, extension or structural change shall not exceed 20% of the gross floor area of the building in existence on the date this paragraph first become effective, which is May 4, 1994, and such alteration, reconstruction, extension or structural change does not increase the nonconforming nature of the building. Open decks, accessory buildings less than 175 square feet in gross floor area, and accessory structures, such as fences, retaining walls, swimming pools, and tennis courts shall be permitted as a matter of right and shall not be included in any gross floor area calculation.

[Amended 5-5-1999 STM by Art. 11; 5-3-2000 ATM Art. 30]

401.1.4.

Wherever a lawful nonconforming building, structure, or use has been abandoned, or has not been used for two consecutive years or more, it shall not be resumed or reestablished, and all future buildings, structures, and uses shall conform to this Zoning Bylaw.

[Amended 5-14-1998 ATM by Art. 45]

401.1.5.

A nonconforming building or structure, if substantially destroyed by fire or other casualty, may be rebuilt within two years, provided that in rebuilding it shall be made to conform to this Zoning By-Law so far as practicable, unless authorized by a special permit under Section 401.1.2 above. ~~If a nonconforming building or structure is damaged or destroyed by natural causes or otherwise, then any rebuilding or restoration may take place as of right as long as the rebuilding or restoration conforms precisely in size, location, configuration and extent of use to that which existed prior to the damage or destruction. All rebuilding or restoration shall be commenced within two years of the date of the damage or destruction and shall be continued through to completion as continuously and expeditiously as reasonable. Prior to the expiration of the two years, if the owner applies to the ZBA for an extension of this time period, and if the ZBA finds that there is good cause for the failure to commence complete rebuilding or restoration, the ZBA may extend the time period for no longer than an additional six months.~~

[Amended 5-14-1998 ATM by Art. 45]

401.1.6.

~~The ZBA may issue a special permit for any changes in size, location, configuration and extent of use in a nonconforming building or structure damaged or destroyed by natural or other involuntary causes, provided that the ZBA shall find that such changes shall not be substantially more detrimental to the neighborhood than the existing nonconforming use.~~

~~[Amended 5-14-1998 ATM by Art. 45; 5-5-2004 ATM by Art. 20]~~

401.1.7.

~~Any permitted restoration or rebuilding under 5-198-401.1.6 shall commence within six months after the issuance of the special permit therefor and shall continue through to completion as continuously and expeditiously as is reasonable or such permission shall lapse. Prior to the expiration of the six months, if the owner applies to the ZBA for an extension of this time period and if the ZBA finds that there is good cause for the failure to commence rebuilding or restoration, the ZBA may extend the time period for no longer than an additional six months. Unless otherwise authorized by the ZBA, the new or restored building or structure shall have the same height and location on the lot as the replaced structure.~~

401.1.8.

Whenever land is taken by, or conveyed to, a governmental authority having the power of eminent domain or a street is created, widened or relocated, any then existing lot shown on a plan or described in a deed recorded in the Registry of Deeds that conformed to the area and frontage requirements before, but not thereafter, shall be considered to conform, and any existing structure that was in compliance with regulations respecting location before, but not thereafter, shall be considered to be in compliance. This paragraph shall not be applicable if the street was a private way and the land on which it was created, widened or relocated was owned by the owner of the lot or structure affected.

[Amended 4-28-1986 ATM by Art. 24; 5-4-1992 STM by Art. 4]

401.1.9.

A building, structure, or use existing on January 1, 1947, shall be conclusively presumed to have been in existence before the first publication of notice of the public hearing on the original enactment of this Zoning Bylaw.

[Amended 5-3-1990 ATM by Art. 22]

Floor to Area Ratio (FAR)

I. What our Peer Towns are Doing

Concord

6.2.13 Maximum floor area ratio. The total gross floor area of all buildings on a lot shall not exceed the maximum square footage per acre of lot area as noted in Section 6, Table III, except as provided in G.L. c.40A, sec. 9C for a child care facility as an accessory use.

Weston

RESIDENTIAL GROSS FLOOR AREA ("RGFA") The sum of the horizontal area(s) of the above-grade floors in the residential building(s) on a lot, excluding unfinished attics but including attached or detached garages. The RGFA shall be measured from the exterior face of the exterior walls.

§5(B)(1)(a) - The Residential Gross Floor Area "RGFA" of any new or replacement single family dwelling use constructed pursuant to a building permit issued on or after October 29, 1998, may not exceed the greater of 3,500 s.f. or 10% of the lot area up to a maximum of 6,000 s.f.

Sudbury & Lincoln

None

II. Proposal

A. Amend the Table of Dimensional Requirements to add a new column, providing a "maximum Residential Floor Area Ratio" of .40 for all residential zoning districts.

B. Amend the Definition Section to define a new term "Residential Floor Area Ratio" as:

The gross residential floor area of all buildings and structures on a lot divided by the total lot area. The gross residential floor area is the sum of the horizontal area(s) of the above-grade floors in all residential building(s) on a lot, measured from the exterior face of the exterior walls, excluding unfinished attics when built in pitched roof construction, but including all other attics, attached or detached garages, accessory buildings, enclosed porches, basements when considered a story above finished grade, and all finished basements, divided by the total lot area.

III. Explanation

These amendments would create a cap of the amount of residential floor area that can be created on a lot, to 40% of the lot area. The term "residential floor area" includes some unfinished space like certain

attics and all garages and accessory buildings, but excludes traditional unfinished basements and true unfinished attics. The 40% cap is quite generous and will only restrict the worst offenders of excessive bulk on small lots, such as the homes that Molly Upton identified on Lakeshore Drive. Thus, the amendment is narrowly-tailored to address a very specific concern with excessively-sized homes on small lots in Wayland. Below is the FAR for the homes identified by Molly Upton, based on a calculation of gross living area from the Assessor's Database, which I believe is probably close to the definition of "residential floor area" except that it excludes garages. The FAR for these properties under the proposed residential floor area definition would likely be somewhat larger to account for garages. 102 Lakeshore could, for example, be over the cap when factoring in the garage space.

Property Address	Lot Size	Gross Floor Area	Gross Living Area	FAR (Living Area/Lot Size)
122 Lakeshore	1307	2923	1614	1.23
102 Lakeshore	5663	2850	1776	0.31
113 West Plain	23086	6126	3742	0.16
30 Lakeshore	11761	4984	2888	0.25
48 Pond Dr	8712	5288	2440	0.28
47 Pond	6967	5411	3121	0.45

The following graphic from the Brookline Zoning Bylaw illustrates how FAR is calculated:

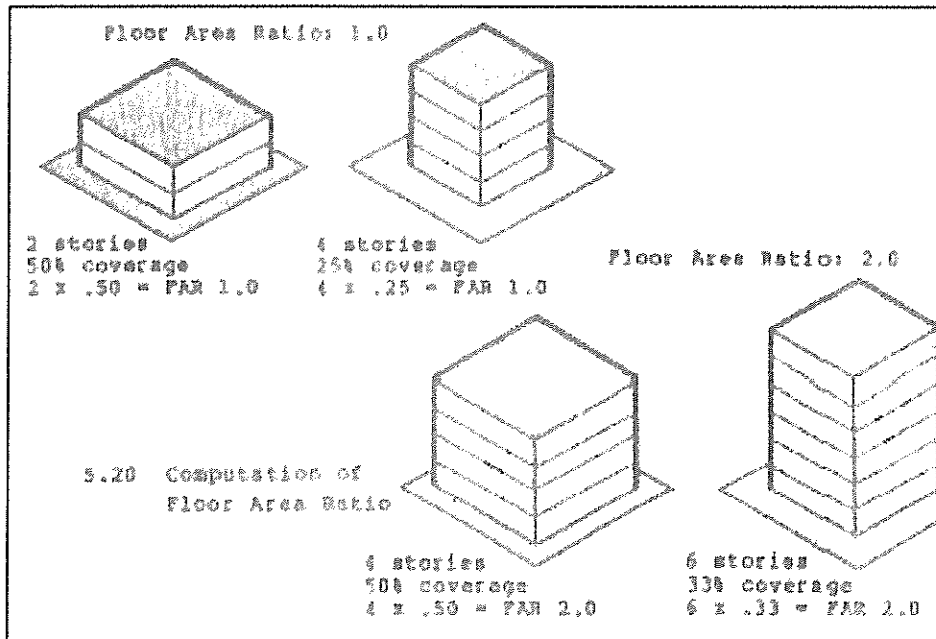


Figure 5.04 - Computation of Floor Area Ratio

Note that the term “Floor Area Ratio” is defined by our Bylaw, but not used. The term is defined as:

“The gross floor area of all buildings and structures on a lot divided by the total lot area.”

The term “gross floor area” is defined as:

“The sum of all floor areas within the perimeter of the outside walls of the building under consideration, without deduction for bathrooms, toilet compartments, lavatories, hallways, stairs, closets, thickness of walls, columns or other features; but excluding unfinished basements, cellars and attics, space used for mechanical systems, garages, and areas open to below such as foyer spaces, balconies, and two-story atriums.”

This definition is more broad than the proposed “residential floor area” definition – it excludes all unfinished spaces including garages, attics, and accessory structures. If the objective is to control the lot coverage by residential buildings on small lots, this definition is not useful, since many of the excessively-sized homes on small lots have large unfinished spaces that would be deducted from this calculation under this definition.

The concept of the “residential floor area” cap comes from the Weston Zoning Bylaw. Weston’s cap is smaller – 10% or 3500 square feet, whichever is larger. This is not particularly useful in Wayland, where we have many very small lots, and even a 3500 sf house would be too large. The proposal is to make the cap at 40%, which is targeted at the most egregious over-building on small lots.

Article 5

REVISED PROPOSED AMENDMENT FOLLOWING PL BD MEETING OF 11/16/15:

- A. Amend Section 198-704 "Lot Coverage" by adding the following new subsection:

704.2. In all residential districts, the maximum Residential Floor Area Ratio for lots having a lot area of 10,000 square feet or less is .40.

- B. Amend the Definition Section to include a new defined term as follows:

"Residential Floor Area Ratio" - The gross residential floor area of all buildings and structures on a lot divided by the total lot area. The gross residential floor area is the sum of the horizontal area(s) of the above-grade floors in all residential building(s) on a lot, measured from the exterior face of the exterior walls, excluding unfinished attics when built in pitched roof construction, but including all other attics, attached or detached garages, accessory buildings, enclosed porches, basements when considered a story above finished grade, and all finished basements, divided by the total lot area.

Article 6.

ZONING BYLAW AMENDMENT / CONSERVATION CLUSTER DEVELOPMENTS

1803.1

After notice and public hearing in accordance with law, which public hearing shall be held within 65 days after the filing of the application with the Planning Board, the Planning Board may, after due consideration of the reports and recommendations of the Conservation Commission and the Board of Health, grant such a special permit, provided that:

1803.1.1.

It finds that the proposed plan is in harmony with the purposes and intent of this Zoning Bylaw and this article.

1803.1.2.

The area of the tract of land is not less than 5 acres.

[Amended 5-5-2005 ATM by Art. 27]

1803.1.3.

The total number of lots on which there is to be a single dwelling unit~~dwelling units on the tract of land, including any affordable units required by Section 2204,~~ does not exceed the larger of the following:

[Amended 5-5-2005 ATM by Art. 29]

1803.1.3.1.

The number of building lots that could be created in the tract shown on such plan by right (without a special permit hereunder), plus one lot for each 10 of such building lots that could otherwise be created; or

1803.1.3.2.

The number of building lots obtained by dividing 90% of the total area of the tract, exclusive of land situated within the floodplain or designated as wetlands by the Conservation Commission, by the minimum lot size permitted in the district within which the tract is located, plus one lot for each 10 lots so arrived at from such division.

1803.1.3.3.

Within the Residence Districts, the Planning Board ~~shall~~may permit~~allow~~ by special permit structures to be constructed containing more than one dwelling unit, but not more than four dwelling units per structure. The total number of dwelling units ~~for attached buildings~~ shall not exceed the total that is allowed under § 198-18051803.1.4.

1803.1.3.4.

Notwithstanding any provision of this Zoning Bylaw to the contrary, the Planning Board may permit by Special Permit attached and detached dwelling units to be erected on single lot(s).

[Added 10-3-2012 STM by Art. 6]

1803.1.4.

Each of the building lots shown on the plan has adequate frontage, but no less than 50 feet, on a public or private way.

1803.1.5.

Each of the building lots shown on the plan is of a size and shape as shall provide a building site that shall be in harmony with the natural terrain and other features of the tract, but no such lot shall have an area of less than 20,000 square feet as shown on the plan.

1803.1.6.

The front, side and rear yards of each lot shall be shown on the plan by dashed lines indicating the area within which a building may be built, provided that all dwellings ~~and~~, accessory buildings, driveways and roadways shall be set back at least 15 feet from the perimeter of the tract and 15 feet from any open land.

1803.1.7.

For Conservation Cluster Developments consisting mostly of single-family detached dwellings, ~~At~~ at least 35% of the land area of the tract, exclusive of land set aside for road and drainage areas, shall be open-designated as Open landLand, ~~and the open land shall include all land not dedicated to roads or building lots.~~ For Conservation Cluster Developments consisting mostly of attached single-family dwellings, at least 50% of the land area of the tract, exclusive of land set aside for road and drainage areas, shall be designated as open-Open landLand. The designated Open Land shall not include any land identified as a protected resource area under the Wayland Wetland and Water Resources Bylaw (excluding buffer zones-). The Open Land shall maintain a lot width equal to at least the minimum frontage requirement in the underlying zoning district. ~~and the open land shall include all land not dedicated to roads or building lots. For the purpose of this article, "open land" is defined as a parcel or parcels of land, or an area of water, or a combination of land and water, not including roads or ways, whether public or private.~~ The Open Land shall be reserved for to-be-used-for open space, conservation, agriculture, outdoor recreation, park purposes or some combination of the foregoing.

[Amended 5-5-2005 ATM by Art. 29]

1803.1.8.

Conveyance of the open-Open landLand.

1803.1.8.1.

The Open landLand, and any other surplus land, wetlands or water bodies within the development tract, shall be conveyed either:

1803.1.8.1.1.

To the Town or its Conservation Commission, but only if the Town or Conservation Commission agrees to accept title to the open land, which shall accept it for park or open space use;

1803.1.8.1.2.

To the Sudbury Valley Trustees, Inc., and its successors or to another nonprofit conservation organization approved by the Planning Board, the principal purpose of which is the conservation of open space; or

1803.1.8.1.3.

To a corporation, trust or association owned, or to be owned, by the owners of lots or residential units within the tract, provided that if such a corporation, trust or association holds title, ownership thereof shall pass with conveyance of the lots or residential units.

1803.1.8.2.

If ownership is in an entity other than the Town, there shall be sufficient rights in the Town to provide that such land shall be kept in an open or natural state, and provision shall be made so that the Town can enforce any other restrictions or easements imposed upon the open land by the Planning Board as conditions of its special permit grant.

1803.1.9.

Subject to the approval of the Board of Health, as otherwise required by law, the Planning Board may permit the open land to be used for subsurface waste disposal where the Planning Board finds that such use will not be detrimental to the character or quality of the open land.

1803.1.10.

If the land shown on the plan includes land in two residence zones, all of the land shall, for all purposes of this article, be considered as lying entirely within the zone having the largest area and frontage requirements, except that if 75% or more of the total area shown as building lots lies within one residence zone, all of the land shall be considered as lying within that zone.

[Amended 5-5-2005 ATM by Art. 29^[1]]

[1]:

Editor's Note: This article also repealed former § 198-1803.1.10, which required that all dwelling units be in detached buildings and that there be only one dwelling unit in a building, and redesignated former § 198-1803.1.11 and § 198-1803.1.12 as § 198-1803.1.10 and 198-1803.1.11, respectively.

1803.1.11.

No lot shown on the plan for which a permit is granted under this article may be further subdivided, and a notation to this effect shall be shown on the plan.

[Amended 5-5-2005 ATM by Art. 29]

§ 198-1804Conditions.

1804.1.

The Planning Board may, in appropriate cases, impose as a condition of the special permit further restrictions, conditions and safeguards upon the tract, or parts thereof, to protect and

promote the health, safety, convenience and general welfare of the inhabitants of the Town of Wayland.

§ 198-1805 Decision.

1805.1.

In connection with the granting or denying of a special permit under this article, the Planning Board shall issue to the applicant and shall file with the Town Clerk a written decision that shall include, at a minimum:

1805.1.1.

A determination of the maximum number of lots upon which dwellings could be constructed without a special permit hereunder and a determination of the area of the tract usable for residential construction in accordance with § 198-1803.1.3 herein.

1805.1.2.

A general description of the neighborhood in which the tract lies and the effect of the plan on the area.

1805.1.3.

The relation of the proposed development to long-range plans of the Town, if any.

1805.1.4.

The extent to which the proposed development is designed to take advantage of the natural terrain of the tract.

1805.1.5.

The extent to which the proposed open land is of such a size, shape and location and has such adequate access so as to benefit the Town.

1805.1.6.

If the Planning Board grants the special permit, the finding required by § 198-1803.1.1 above.

1805.1.7.

If the Planning Board denies the special permit, its reasons for so doing.

1805.1.8.

If the Planning Board disagrees with the recommendations of the Conservation Commission or the Board of Health, it shall state its reasons therefor in writing.

1805.1.9.

If, by the terms of the special permit, the Planning Board permits the open land to be used for subsurface waste disposal, the finding required by § 198-1803.1.9 above.

1805.2.

Such decision must be reached, filed with the Town Clerk and sent or delivered to the applicant within 90 days after the public hearing held on the application for the special permit, unless said ninety-day deadline is extended in accordance with law. Failure to so act shall be deemed approval in accordance with law.

§ 198-1806 Common land.

1806.1.

If a special permit is granted, the Planning Board shall impose as a condition that the common land shall be conveyed, free of any mortgage interest or security interest and subject to a perpetual restriction of the type described above, prior to the Planning Board's release of any lots from the subdivision restriction covenant or, if there is no such covenant, prior to the Building Commissioner's issuance of a building permit for any lot. The petitioner shall provide satisfactory assurance of said conveyance and recording, in the form of copies of the recorded instruments bearing the recording stamp, and of such freedom from encumbrances.

§ 198-1807 Duration of special permit.

1807.1.

A special permit granted under this article shall lapse within 18 months if substantial construction has not begun by such date, except for a good cause shown and approved by the Planning Board.

§ 198-1808 Amendments.

1808.1.

Following the granting by the Planning Board of a permit under this article, it may, upon application and for good cause shown, after notice and a public hearing as required for granting a special permit, amend the plan solely to make changes in lot lines shown on the plan; provided, however, that no such amendment shall:

1808.1.1.

Grant any reduction in the size of the open land as provided in the permit;

1808.1.2.

Grant any change in the layout of the ways as provided in the permit;

1808.1.3.

Increase the number of building lots as provided in the permit; or

1808.1.4.

Decrease the dimensional requirements of any building lot below the minimal required by this Zoning Bylaw.

Building Height Memo

November 16, 2015

I. Wayland Zoning Bylaw

“BUILDING HEIGHT - The distance, measured vertically from the average grade to the highest roof element.”

“GRADE - A reference plane representing the average of finished ground adjoining the building at all exterior walls, established by the lowest points within the area between the building and a point six feet from the building.”

** This was amended as part of the 2011 recodification. What was the prior language?*

II. Problem

This definition measures building height against whatever the “finish grade” is on a house lot. The definition of “building height” refers to “average grade,” which in turn is defined. Most communities I have worked in measure building height against existing grade. The advantage for using existing grade is that it puts an actual limit on how tall a building can be on an existing lot. Measured against “finish” grade allows a property owner to artificially raise the elevation of its lot and build a house or building that is effectively taller than the height limitation as a consequence of elevation change. This defeats the purpose of a height limitation provision. For example, if a developer increases the elevation of a lot by 10 feet, and builds a 35’ tall house, the house is actually 45’ as measured from the existing grade.

Molly Upton, Board of Assessors, provided an example of this at 48 Pond Drive. She states that before this house was built, the lot was flat. The developer apparently added fill, which gave the appearance of a house that is taller than it actually is.



III. What our Peer Towns are Doing

Winchester

HEIGHT OF A BUILDING. The height of a building is the vertical distance measured from the mean grade of the existing ground level adjoining the building at each exterior wall to the highest point of the roof. Mean grade is to be determined by measuring the elevation at the major exterior corners of a structure and then dividing the total elevation by the number of points of measurement. The maximum height of a building shall not exceed the distance in feet or the number of stories, whichever is less, as set forth in the Table of Dimensional Requirements for the district in which the building is located.

Weston

Definitions:

HEIGHT The vertical distance from the Grade Plane to the highest point of a building.

GRADE PLANE A horizontal reference plane passing through the elevation of the Average Natural Grade of a proposed building from which building height is determined.

NATURAL GRADE shall be the natural grade of the land at any point along the perimeter of a proposed building prior to disturbance for construction. The elevation of the natural grade prior to disturbance for construction shall be certified by a registered land surveyor, or may be such elevation as may be determined from maps or records satisfactory to the town.

Sudbury

Building height in feet: Height in feet shall be the vertical distance measured from the mean of the finished ground level adjoining the entire building at each exterior wall to the ridge or highest point of the roof.

Lincoln

Grade, Natural: The elevation of the land in its natural state at any point along the perimeter of a proposed building prior to disturbance for construction, filling or excavation. The natural grade shall be certified by a registered land surveyor, or may be such elevation as may be determined from maps or records satisfactory to the Planning Board.

13.1.1.b For any structure constructed after April 5, 2003, height shall be measured as the vertical distance from the lowest exposed point on the structure to the highest point on

the structure, unless the Planning Board determines that additional height would not adversely affect the neighborhood in which case height may be measured as the vertical distance from the average natural grade around the perimeter of the structure to the highest point on the structure.

*** This provision is problematic, in that it would allow a developer to raise the elevation of the house lot, and therefore achieve a taller building than if measured against "average natural grade," which was probably not intended. The second half of the provision evinces an intent to measure height from the average natural grade, not final grade.*

IV. Proposal

Amend the Definition Section to redefine "Building Height" consistent with the Winchester ZBL, to:

"The vertical distance measured from the mean grade of the existing ground level adjoining the building at each exterior wall to the highest point of the roof. Mean grade is to be determined by measuring the elevation at the major exterior corners of a structure and then dividing the total elevation by the number of points of measurement. The maximum height of a building shall not exceed the distance in feet or the number of stories, whichever is less, as set forth in the Table of Dimensional Requirements for the district in which the building is located."

Article 7

REVISED FOLLOWING PL BD MEETING 11/16/15:

Amend the Definition Section to redefine "Building Height" as follows:

The vertical distance measured from the average natural grade to the highest point of the roof. Natural grade shall mean the elevation of the land in its natural state prior to disturbance for construction, filling or excavation, and shall be measured at each exterior corner of the building. In the event of a dispute or question concerning the accuracy of the average natural grade, an applicant shall produce a certification of the elevation from registered land surveyor.

ARTICLE FOR ANNUAL TOWN MEETING

SPONSOR: Planning Board DATE RECEIVED: December 8, 2015
CONTACT PERSON: Sarkis Sarkisian Town Planner TELEPHONE/Day: 508-358-3778
TELEPHONE/Evening: _____
BOARD VOTE: _____ DATE OF VOTE: _____
TITLE: Assisted/independent living and Nursing home
COST: _____ NO COST: _____ COST ESTIMATE AVAILABLE ON: _____

TEXT: Article 8.

To determine whether the Town will vote to amend Chapter 198 of the code of the Town of Wayland, the Town's Zoning Bylaw, by making the following revisions:

Insert a new note in the Table of Permitted Principal Uses by Districts for use 24. Assisted/independent Living, use 32. Nursing Homes.

Add note 3.

For use 24. Assisted/independent living and use 32. Nursing homes in residential districts shall not exceed more than 4 total units.

ZONING

Article 9 insert new section 75 Auto Sales below

198 Attachment 5

Town of Wayland

Table of Permitted Accessory Uses by Districts

[Added 5-14-1998 ATM by Art. 55; amended 5-5-1999 STM by Art. 10;
4-30-2001 ATM by Art. 25; 4-30-2001 ATM by Art. 26]

Key to symbols: Yes = Allowed as of right
No = Not allowed
SP = Allowed by special permit
R = Required
NR = Not required
NA = Not applicable

Accessory Uses	Single Residence	Roadside Business	Business A	Business B	Light Manufacturing	Limited Commercial	Site Plan Approval
58. Accessory dwelling unit (§ 198-901.1.3)	SP	SP	No	NA	NA	NA	NR
59. Accessory dwelling unit - WHA (§ 198-901.1.4)	SP	SP	No	NA	NA	NA	NR
60. Barn, toolshed	Yes	Yes	Yes	Yes	Yes	Yes	NR
61. Cafeterias, banks, day-care or recreational facilities for employees	No	No	No	No	No	Yes	R
62. Home occupation (§ 198-901.1.2)	SP	SP	Yes	Yes	Yes	Yes	R
63. Family day care	Yes	Yes	Yes	Yes	Yes	Yes	R
64. Garage, carport: 3 vehicles or fewer	Yes	Yes	Yes	Yes	Yes	Yes	NR
65. Greenhouse, noncommercial	Yes	Yes	Yes	Yes	Yes	Yes	NR
66. Home occupation (§ 198-901.1.1)	Yes	Yes	Yes	Yes	Yes	Yes	NR
67. Kennel: 3 dogs or fewer	Yes	Yes	Yes	Yes	Yes	Yes	NR
68. Kennel: 4 dogs or more	SP	SP	Yes	Yes	Yes	Yes	R
69. Letting/renting of rooms	SP	SP	No	No	No	No	NR
70. (Reserved)	--	--	--	--	--	--	--
71. Residence in accessory dwelling	Yes	Yes	No	No	No	No	NR
72. Roadside stand	SP	SP	Yes	Yes	Yes	Yes	R
73. Swimming pool	Yes	Yes	No	No	No	No	NR
74. Tennis court	Yes	Yes	No	No	No	No	NR
75. Auto Sales – Used Second Hand Motor Vehicles not to Exceed Five (5) Vehicles on Site of Service Stations	No	No	Yes	No	No	No	R if Exceeds More than Five (5) Vehicles