

BOARD OF SELECTMEN
February 5, 2013
Needham Town Hall – Powers Hall
Agenda

1.	6:00	Town Manager <ul style="list-style-type: none">• Accept and Refer Zoning
2.	6:05	Board Discussion <ul style="list-style-type: none">• Review Retail Sale of Alcohol Applications



**Board of Selectmen
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 2/5/2012

Agenda Item	Accept and Refer Zoning Amendment
Presenter(s)	Kate Fitzpatrick, Town Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED		
<p>The Planning Board has voted to sponsor place five zoning articles on the Annual Town Meeting warrant. Under State law, the Board has 14 days to accept the proposed amendment and refer the amendment back to the Planning Board for its review, hearing, and report.</p>			
2.	VOTE REQUIRED BY BOARD OF SELECTMEN	YES	NO
<p><i>Suggested Motion:</i> That the Board vote to accept and refer five proposed zoning articles: 1. Amend Zoning By-law: Dimensional Regulations; 2. Amend Zoning By-law: Lot Width Definition/Measurement; 3. Amend Zoning By-law: Definitions; 4. Amend Zoning By-law: Dimensional Controls for Exempt Uses; and 5. Amend Zoning By-law: Dimensional Regulations for Mixed-Use 128 Zoning District to the Planning Board for review, public hearing, and report.</p>			
3.	BACK UP INFORMATION ATTACHED	YES	NO
<ul style="list-style-type: none"> a. Letter from Lee Newman, Planning Director, February 1, 2013 b. Text of Zoning Articles c. M.G.L. c. 40A Section 5 			



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

500 Dedham Ave
Needham, MA 02492
781-455-7500

PLANNING

February 1, 2013

Ms. Kate Fitzpatrick
Town Manager
Town Hall
Needham, MA 02492

Re: Zoning Articles for 2013 Annual Town Meeting

Dear Kate:

The Planning Board at its meeting of January 22, 2013 voted to place the following articles on the warrant for the May 2013 Annual Town Meeting: (1) Amend Zoning Bylaw: Dimensional Regulations; (2) Amend Zoning By-Law: Lot Width Definition/Measurement; (3) Amend Zoning By-Law – Definitions; (4) Amend Zoning By-Law: Dimensional Controls for Exempt Uses; and (5) Amend Zoning By-Law: Dimensional Regulations for Mixed-Use 128 Zoning District. Accordingly, please find the above-named articles as approved by the Board for inclusion in the warrant of the 2013 Annual Town Meeting.

As you know, the Board of Selectmen will need to accept the articles and to then forward them to the Planning Board for review, public hearing and report. Please have the Selectmen act on the enclosed articles at their next meeting of Tuesday, February 5, 2013, so that the Planning Board can meet its statutory obligations. The Planning Board plans to schedule the public hearing on the articles for Tuesday, March 5, 2013.

Should you have any questions regarding this matter, please feel free to contact me directly.

Very truly yours,

NEEDHAM PLANNING BOARD

Lee Newman
Director of Planning and Community Development

cc: Planning Board

Enclosure

Article 1: Amend Zoning By-Law – Dimensional Regulations

To see if the Town will vote to amend the Needham Zoning By-Law, Section 4.1 Basic Requirements, Subsection 4.1.3, Reduction of Area and Frontage Requirements, by revising the paragraph, so that the entire subsection shall now read as follows: (new language underlined):

“4.1.3 Reduction of Area, Frontage, and Setback Requirements

No lot shall be reduced in area or frontage if it already has or will be caused to have less area or frontage than required by this section, except by a taking by eminent domain or a conveyance for a public purpose. Such lots reduced in area or frontage by a taking by eminent domain or a conveyance for a public purpose shall be entitled to the protections afforded by statute and in this By-Law to pre-existing nonconforming lots. Further, if an existing structure is rendered nonconforming as to setback (or more non-conforming as to setback) by a taking by eminent domain or conveyance for a public way or access way or by the approval of a subdivision way for a third party, said structure shall be entitled to the protections afforded by statute and in this By-Law to pre-existing nonconforming structures.”

Or take any other action relative thereto.

Article 2: Amend Zoning By-Law – Lot Width Definition/Measurement

To see if the Town will vote to amend the Needham Zoning By-Law, Section 4.1 Basic Requirements, Subsection 4.1.5, Minimum Required Lot Width, by revising the paragraph, so that the entire subsection shall now read as follows: (new language underlined):

“4.1.5 Minimum Required Lot Width

Building lots in all zoning districts recorded or endorsed after January 9, 1986 shall be required to have a minimum lot width for a distance that extends from the front line throughout the building or structure not less than the applicable minimum frontage for the district in which said lot is located, as specified in Sections 4.2.1, 4.3.1, 4.4.1, and 4.6.1; except, however, in the Single Residence A District such minimum required lot width shall be at least 120 feet. Lot width shall be measured perpendicular from a point starting at the front line from one sideline to a strait-line distance intersecting another sideline. This measurement need not be perpendicular from more than one sideline. In the case of a triangular shaped lot with strait or curved front line, the strait-line measurement will be from the lot corners intersecting the street or way and continued parallel to that line throughout the building or structure. Lot width for corner lots will be measured perpendicular from the front lines to the sidelines in both directions.

Or take any other action relative thereto.

Article 3: Amend Zoning By-Law – Definitions

To see if the Town will vote to amend the Needham Zoning By-Law, Section 1.3, Definitions, by revising the existing definition of the term “Half-Story or ½ Story”, so that it shall now read as follows: (new language underlined):

“Half-Story or ½ Story – For all single-family detached dwellings and two-family detached dwellings located in all Districts, and apartment and multi-family dwelling units permitted by Special Permit in the Center Business District and located in the half-story directly above the second floor, that portion of a building included between the upper surface of a floor and the lower surface of a sloping roof next above where the area contained therein has a finished ceiling height exceeding 5’-0”. Dormers installed in a sloping roof directly above the second story of a structure shall be limited in size as follows: the total length of the front wall(s) of a dormer(s) shall not exceed 30% (thirty percent) of the eave length of the portion of the roof in which the dormer is built. There are no restrictions on dormers installed in a sloping roof directly above the first story of a structure. This definition shall apply to all single-family detached dwellings, two-family detached dwellings, and apartment and multi-family dwelling units permitted by Special Permit in the Center Business District and located in the half-story directly above the second floor. For all other buildings the definition is, that part of a building under a sloping roof where the full-length rafters rest on the top beam of the story below.

Or take any other action relative thereto.

Article 4: Amend Zoning By-Law – Dimensional Controls for Exempts Uses

To see if the Town will vote to amend the Needham Zoning By-Law as follows:

1. In Section 4.7 Special Conditions, Subsection 4.7.4 Dimensional Controls for Exempt Uses, by deleting Section 4.7.4 in its entirety.
2. In Section 4.7 Special Conditions, Subsection 4.7.5 Change in Dimensional Regulations by Special Permit, by replacing “4.7.5” with “4.7.4” in the first sentence of the second paragraph.
3. In Section 4.7 Special Conditions by renumbering Subsection 4.7.5 Change in Dimensional Regulations by Special Permit as Subsection 4.7.4.

Or take any other action relative thereto.

**ARTICLE 5: AMEND ZONING BY-LAW/ DIMENSIONAL REGULATIONS
FOR MIXED-USE 128 ZONING DISTRICT**

To see if the Town will vote to amend the Needham Zoning By-Law as follows:

1. In Section 4.9 Dimensional Regulations for Mixed-Use 128

Amend 4.9 Table

By adding to Front Setback and Side Setbacks notation to footnote (1)

By changing Maximum Lot Coverage from 60% to 65%

By changing Floor Area Ratio from 0.30 to 1.00

By changing Maximum Height from 54 feet to 70 feet

Amend Footnote (1)

By changing the first sentence to read: "All buildings shall be limited to a height of 70 feet, except that, buildings within 350 feet of a river shall be limited to a height of 54 feet."

By adding a new second sentence: "Notwithstanding the forgoing, the Planning Board may allow by special permit a maximum height of up to 84 feet. If the height of a building is increased above the height of 54 feet, the front setback shall be increased to 15 feet and the side setback to 20 feet."

Amend Footnote (2)

By changing first sentence to read: "Maximum lot coverage shall be 65% for all projects." [65% replaces 60%]

By changing second sentence to read: "However, if a project is designed such that at least 65% of the required landscaped area immediately abuts at least 65% of the required landscaped area of an adjoining project for a distance of at least 50 feet the maximum lot coverage may be increased to 75%." [75% replaces 70%]

Amend Footnote (4)

By adding the following sentence at the end of this footnote: "Notwithstanding the preceding sentence, open space shall include pervious surfaces used for ways, access streets, parking areas, driveways, aisles, walkways, or other constructed approaches or service areas. (Pervious surfaces shall not preclude porous pavement, porous concrete, and/or other permeable pavers.)"

Amend Footnote (5)

By changing first sentence to read: "A floor area ratio of up to 1.75 may be allowed by a special permit from the Planning Board." [1.75 replaces 1.5]

By adding the following sentence at the end of the footnote: “Further, the Planning Board may allow a floor area ratio of up to 2.0, by special permit, where the applicant demonstrates, to the Board’s satisfaction, that the proposed use will not generate peak hour trips in excess of 0.6 trips per 1,000 square feet of total development area.”

3. In Section 4.9.2 Floor Area Ratio, Incentives

Amend Section 4.9.2

By changing the first sentence to read: “In the Mixed Use-128 District the maximum floor to area ratio (FAR) permitted by right shall be 1.00.” [1.00 replaces 0.3.]

4. Add New Section 4.9.3

The Planning Board may, by special permit, waive any or all dimensional requirements set forth above in this Section 4.9 (including sections 4.9.1 and 4.9.2), by relaxing each by up to a maximum percentage of 25% if it finds that, given the particular location and/or configuration of a project in relation to the surrounding neighborhood, such waivers are consistent with the public good, that to grant such waiver(s) does not substantially derogate from the intent and purposes of the By-Law or the Goals of the District Plan cited in Section 6.8.1(b) of these Zoning By-Laws, and that such waivers are consistent with the requirements of Section 6.8. This section does not authorize the Planning Board to waive the maximum height regulations. (By way of example, the 15’ front yard setback could be waived to 11.25’; the 65% lot coverage could be waived to 81.25%; or the 40,000 sq. ft. minimum lot area could be waived to 30,000 sq. ft.)

[The words in brackets are not part of the change but are an explanation of the change.]

Or take any other action relative thereto.



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PART I ADMINISTRATION OF THE GOVERNMENT (Chapters 1 through 182)
TITLE VII CITIES, TOWNS AND DISTRICTS
CHAPTER 40A ZONING
Section 5 Adoption or change of zoning ordinances or by-laws; procedure

Section 5. Zoning ordinances or by-laws may be adopted and from time to time changed by amendment, addition or repeal, but only in the manner hereinafter provided. Adoption or change of zoning ordinances or by-laws may be initiated by the submission to the city council or board of selectmen of a proposed zoning ordinance or by-law by a city council, a board of selectmen, a board of appeals, by an individual owning land to be affected by change or adoption, by request of registered voters of a town pursuant to section ten of chapter thirty-nine, by ten registered voters in a city, by a planning board, by a regional planning agency or by other methods provided by municipal charter. The board of selectmen or city council shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the planning board for review.

No zoning ordinance or by-law or amendment thereto shall be adopted until after the planning board in a city or town, and the city council or a committee designated or appointed for the purpose by said council has each held a public hearing thereon, together or separately, at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed zoning ordinance or by-law is submitted to the planning board by the city council or selectmen or if there is none, within sixty-five days after the proposed zoning ordinance or by-law is submitted to the city council or selectmen. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of said hearing, and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid to the department of housing and community development, the regional planning agency, if any, and to the planning board of each abutting city and town. The department of housing and community development, the regional planning agency, the planning boards of all abutting cities and towns and nonresident property owners who may not have received notice by mail as specified in this section may grant a waiver of notice or submit an affidavit of actual notice to the city or town clerk prior to town meeting or city council action on a proposed zoning ordinance, by-law or change thereto. Zoning ordinances or by-laws may provide that a separate, conspicuous statement shall be included

with property tax bills sent to nonresident property owners, stating that notice of such hearings under this chapter shall be sent by mail, postage prepaid, to any such owner who files an annual request for such notice with the city or town clerk no later than January first, and pays a reasonable fee established by such ordinance or by-law. In cases involving boundary, density or use changes within a district, notice shall be sent to any such nonresident property owner who has filed such a request with the city or town clerk and whose property lies in the district where the change is sought. No defect in the form of any notice under this chapter shall invalidate any zoning ordinances or by-laws unless such defect is found to be misleading.

Prior to the adoption of any zoning ordinance or by-law or amendment thereto which seeks to further regulate matters established by section forty of chapter one hundred and thirty-one or regulations authorized thereunder relative to agricultural and aquacultural practices, the city or town clerk shall, no later than seven days prior to the city council's or town meeting's public hearing relative to the adoption of said new or amended zoning ordinances or by-laws, give notice of the said proposed zoning ordinances or by-laws to the farmland advisory board established pursuant to section forty of chapter one hundred and thirty-one.

No vote to adopt any such proposed ordinance or by-law or amendment thereto shall be taken until a report with recommendations by a planning board has been submitted to the town meeting or city council, or twenty-one days after said hearing has elapsed without submission of such report. After such notice, hearing and report, or after twenty-one days shall have elapsed after such hearing without submission of such report, a city council or town meeting may adopt, reject, or amend and adopt any such proposed ordinance or by-law. If a city council fails to vote to adopt any proposed ordinance within ninety days after the city council hearing or if a town meeting fails to vote to adopt any proposed by-law within six months after the planning board hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as provided.

No zoning ordinance or by-law or amendment thereto shall be adopted or changed except by a two-thirds vote of all the members of the town council, or of the city council where there is a commission form of government or a single branch, or of each branch where there are two branches, or by a two-thirds vote of a town meeting; provided, however, that if in a city or town with a council of fewer than twenty-five members there is filed with the clerk prior to final action by the council a written protest against such change, stating the reasons duly signed by owners of twenty per cent or more of the area of the land proposed to be included in such change or of the area of the land immediately adjacent extending three hundred feet therefrom, no such change of any such ordinance shall be adopted except by a three-fourths vote of all members.

No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board.

When zoning by-laws or amendments thereto are submitted to the attorney general for approval as required by section thirty-two of chapter forty, he shall also be furnished with a statement which may be prepared by the planning board explaining the by-laws or amendments proposed, which statement may be accompanied by explanatory maps or plans.

The effective date of the adoption or amendment of any zoning ordinance or by-law shall be the date on which such adoption or amendment was voted upon by a city council or town meeting; if in towns, publication in a town bulletin or pamphlet and posting is subsequently made or publication in a newspaper pursuant to section thirty-two of chapter forty. If, in a town, said by-law is subsequently disapproved, in whole or in part, by the attorney general, the previous zoning by-law, to the extent that such previous zoning by-law was changed by the disapproved by-law or portion thereof, shall be deemed to have been in effect from the date of such vote. In a municipality which is not required to submit zoning ordinances to the attorney general for approval pursuant to section thirty-two of chapter forty, the effective date of such ordinance or amendment shall be the date passed by the city council and signed by the mayor or, as otherwise provided by ordinance or charter; provided, however, that such ordinance or amendment shall subsequently be forwarded by the city clerk to the office of the attorney general.

A true copy of the zoning ordinance or by-law with any amendments thereto shall be kept on file available for inspection in the office of the clerk of such city or town.

No claim of invalidity of any zoning ordinance or by-law arising out of any possible defect in the procedure of adoption or amendment shall be made in any legal proceedings and no state, regional, county or municipal officer shall refuse, deny or revoke any permit, approval or certificate because of any such claim of invalidity unless legal action is commenced within the time period specified in sections thirty-two and thirty-two A of chapter forty and notice specifying the court, parties, invalidity claimed, and date of filing is filed together with a copy of the petition with the town or city clerk within seven days after commencement of the action.



**Board of Selectmen
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 2/5/2013

Agenda Item	Discussion of Package Store License Hearings
Presenter(s)	Board Discussion

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED		
<p>The Board will discuss which Section 15 package store applications to grant.</p>			
2.	VOTE REQUIRED BY BOARD OF SELECTMEN	YES	NO
<p><i>Suggested Motion:</i></p> <p>That the Board vote to (approve/deny) M.G.L. Chapter 138 Section 15 Package Store application received from _____.</p> <p>And, if applicable,</p> <p>That the Board determine that the granting of the license is not detrimental to the educational and/or spiritual activities of _____.</p>			
3.	BACK UP INFORMATION ATTACHED	YES	NO