

**GUIDE TO ZONING ARTICLES IN THE 2017
ANNUAL TOWN MEETING AND SPECIAL TOWN MEETING WARRANT**
Articles 23, 24, 25, 26, 27, 28, 29, 30 and 31 – Annual Town Meeting
Article 11 – Special Town Meeting

In accordance with Article 84 of the Annual Town Meeting of 1963, the Planning Board submits the following brief report regarding its zoning amendment articles in the 2017 Annual Town Meeting and Special Town Meeting Warrants. This year there are nine zoning articles in the Annual Town Meeting Warrant submitted by the Planning Board. In the Special Town Meeting there is one zoning article submitted by Citizens' Petition.

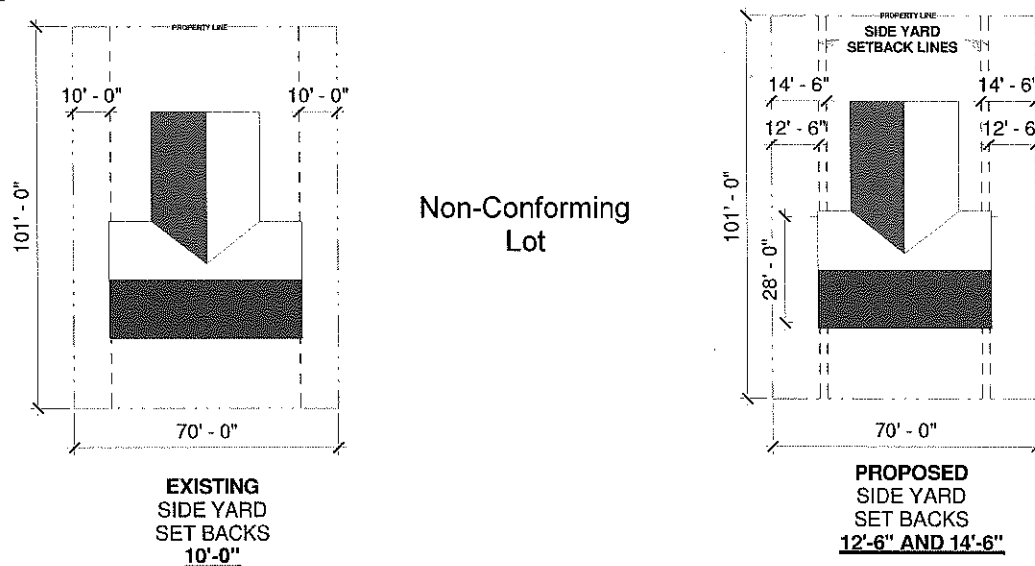
RE: Annual Town Meeting Article 23: Amend Zoning By-Law – Dimensional Regulations for Residential District (Technical Formatting Amendment)

Article 23 is a technical formatting amendment to Section 4.2 of the Needham Zoning By-Law which presents the dimensional regulations for the Rural-Residence Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts. This article is a formatting change only and makes no substantive changes whatsoever to the Zoning By-Law. Instead of a single table with numerous footnotes, the presentation is revised to four tables with fewer footnotes. The Planning Board is offering this article to make the Zoning By-Law easier to understand and to facilitate amendments that are offered in the following articles (Article 24 through Article 30).

RE: Annual Town Meeting Article 24: Amend Zoning By-Law – Side Yard Setback Requirement in the Single Residence B and General Residence Districts for Nonconforming Lots

Article 24 establishes a new side yard setback requirement for "new construction" on a lot that was created prior to January 9, 1986 and is nonconforming as to area and/or frontage in the Single Residence B and General Residence Districts. The minimum setback standard of 12.5 feet proposed under this article to be applied to such nonconforming lots would replace the minimum side setback of 10 feet that was previously adopted by Town Meeting in 1999 for "new construction" on such nonconforming lots, and this article would apply the same side yard setback rules to nonconforming lots as now apply to conforming lots that were created prior to January 9, 1986. A lotting plan which shows the existing and proposed side yard setback regulation for the non-conforming lot is below as Figure 1.

Figure 1:



By adopting this amendment, a confusing ambiguity in Section 4.2 would also be corrected. Presently, footnote (i) of Section 4.2.1 Table of Regulations appears to apply this reduced side setback standard to any lot in the Single Residence B or General Residence Districts that contains less than 10,000 square feet or has less than 80 feet of frontage, whether or not that lot is a valid prior nonconforming lot under the State Zoning Act and the Zoning By-Law and whether or not that lot was created before or after January 9, 1986. Under the Act and By-Law, it was not in fact possible to create such undersized lots after January 9, 1986, so this amendment is technical in nature as to this apparent exemption.

Note that "New construction" is defined in the Zoning By-Law.

The Planning Board believes this amendment will lead to proportional development across the conforming/nonconforming lot class leading to better control of building bulk and massing in Needham's residential districts. The setback standard contained in this article for the two noted categories had been previously recommended by the Planning Board in 1999 but through amendment of Town Meeting had been eliminated. The article is now offered as a baseline change to the zoning to address the issue of large house construction in Needham's residential neighborhoods as recommended in 1999. It should be noted that if the setback standards contained in Article 27 are subsequently adopted by this Town Meeting, the provisions adopted under this amendment will be superseded by that adoption.

RE: Annual Town Meeting Article 25: Amend Zoning By-Law -Height Requirement in Residential Districts

Article 25 revises the current definition of the term "height" as it is applied to buildings and structures located within the Rural Residence-Conservation, Single Residence A, Single Residence B, and General Residence Districts. Presently, building height is measured from average finished grade at the face of the house wall to the highest point of the structure or roof of the building. The height limit under this measurement method for residential uses in the noted districts is 35 feet.

In general, the average height of replacement houses built under Needham's current height measurement method have been much closer to the 35-foot height limit than homes built earlier in the century. There are numerous factors involved in this. One observed result has frequently been the mounding of the grade along the perimeter of the house which raises the height measurement point compared to the existing grade sometimes resulting in the alteration of the storm water runoff flow direction that had existed on the lot prior to reconstruction. Most original grading was part of a larger neighborhood watershed design developed at the time the original subdivision development was implemented. The mounding approach, when done on several lots, often does not work in concert with the larger neighborhood drainage design and leads to drainage problems on abutting lots.

The goal of the amendment offered under Article 25 is to obtain a height profile for new construction which is more in scale with that of the existing neighborhood and to further discourage the mounding of the grade along the perimeter of the house as a strategy to maximize height. Accordingly, under the proposed amendment, height is to be measured using one of two alternative methods, with the method to be determined at the discretion of the applicant. Under the first option height is measured from average original grade or average new grade, whichever is lower, to the highest point of a structure or roof of a building. The height limit under this method is 35 feet. This approach works best on lots that are relatively level or slope up from the front. Under the second option height is measured from a single point in the street centerline as the average of the highest 1/3 of the property's street frontage. The height limit is 32 feet when using this alternative. This approach works best on lots that slope down from the street front, which are at a disadvantage when measuring from average existing grade. In both alternatives the average height is to be measured starting at one corner of the property with measurements taken along the

perimeter of the structure every 10 feet. A section plan which shows the implementation of the second height option on the downhill lot is shown as Figure 2 and Figure 3.

Figure 2:

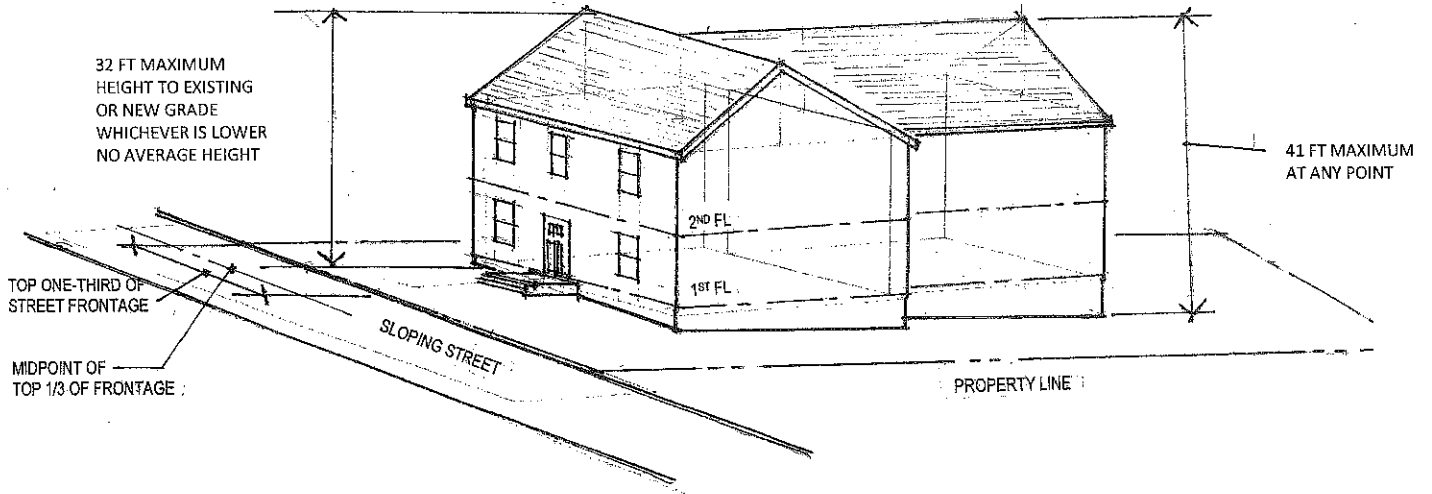
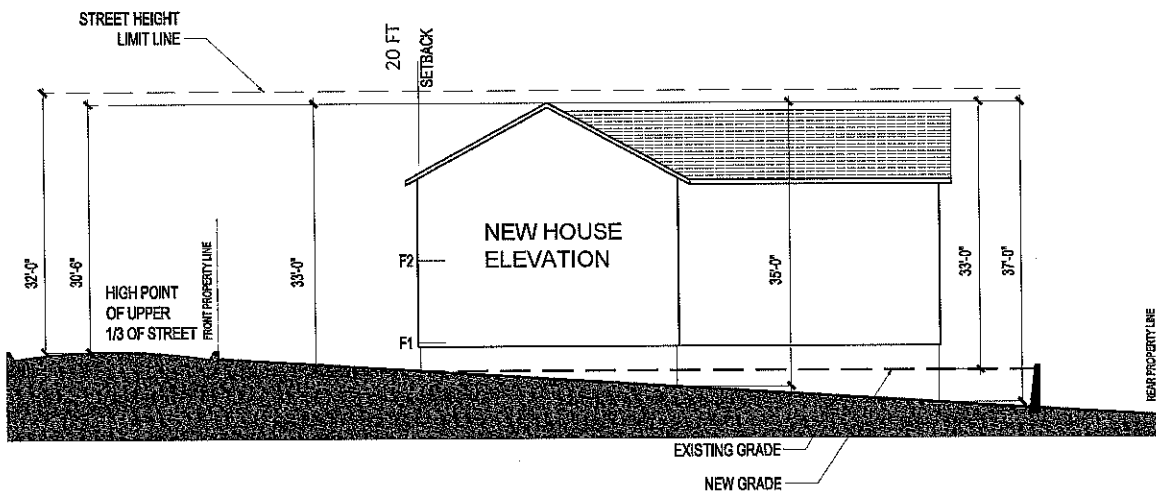


Figure 3:

AVERAGE HEIGHT TO EXISTING GRADE: 35.5'
 AVERAGE HEIGHT TO NEW GRADE: 33'
 HEIGHT FROM HIGHEST 1/3 OF STREET: 31'



HEIGHT MEASUREMENT
 EXAMPLE B: DOWNHILL LOT
 FIRST FLOOR 1' ABOVE STREET

To further control building height and massing, the article further offers two additional controls for the Single Residence B and General Residence Districts. A maximum building height above grade at any point around the building of 41 feet is established. As height is measured using an average grade calculation, this restriction would limit the potential for any side of a house to be excessively tall. Additionally, a prohibition on the placement of dormers in the one-half story is required if all or a portion of the basement wall along the elevation in which the dormers are to be placed is exposed. In this case the goal is to reduce the overall building mass over a walk-out basement where, if the dormer option were exercised, the elevation would present visually as a 4-story structure.

RE: Annual Town Meeting Article 26: Amend Zoning By-Law –Floor Area Ratio Requirement in the Single Residence B District

The amendment offered under Article 26 is intended to preserve the relative scale, character and value of Needham's existing neighborhoods by regulating the gross floor area of structures relative to the size of the lot through the introduction of a Floor Area Ratio (FAR) requirement in the Single Residence B District. Floor Area Ratio expresses the allowed square footage of all buildings on a lot as a ratio, or percentage, of the existing lot area.

This Zoning By-Law amendment is intended to address concerns with demolition of existing smaller homes being replaced with larger homes in existing neighborhoods and the loss of neighborhood character which is occurring as a result of this conversion process. Homes that are out of scale relative to their lot size can compromise the character of the neighborhood. Bigger houses on smaller lots are often much taller or wider than nearby homes, stand closer to the street than their neighbors, and include fewer porches, decks or other exterior features of architectural interest.

The existing dimensional regulations in the Town's Zoning By-Law set maximum building heights and minimum yard setbacks. Since they only consider one dimension at a time, setback and height regulations have not been very effective at preventing the construction of oversized houses that take every dimension to its limits. Article 26 controls the overall density of structures across all dimensions by limiting the gross floor area of all structures relative to lot area. Less floor area is allowed on smaller lots with more allowed on large lots.

The specific formula proposed in Article 26 attempts to balance the desire of individual land owners to maximize house size on a lot with the preservation of collective neighborhood character. The article provides for a maximum floor area ratio in the Single Residence B District as follows: for lots less than 12,000 square feet, the FAR may not exceed .38 and for lots containing 12,000 square feet or more, the FAR may not exceed .36.

The key to FAR is what counts as floor area and what does not. Many communities include complicated calculations of finished or unfinished basements, walk-up attics, and garages, and count some portion or all of them as floor area to be regulated. This can lead to unnecessary changes to topography, roof pitch and design simply to avoid those areas being counted as floor area. The approach taken in Article 26 concedes that every house has a foundation of some depth, and a roof of some appropriate design. Whether it is finished space, crawl space, or trussed attic, does not really impact the house structure and look. Floor area counted under the amendment is defined as gross finished habitable area on the first and second floors. An additional 600 square feet is allowed for the garage.

RE: Annual Town Meeting Article 27: Amend Zoning By-Law –Definitions and Side Yard Setback in the Single Residence B and General Residence Districts

Article 27 establishes a new set of definitions for the terms “front yard setback”, “side yard setback”, and “rear yard setback” and “lot coverage” in the Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence and Institutional Districts, revises the way in which setback is to be measured and details the various architectural elements that would be permitted to be built within a required front, rear or side yard. Roof overhangs, covered porches, bay windows, and bulkheads, would now be allowed in the various setbacks with some limitations.

Additionally, the article establishes a new side yard setback requirement in the Single Residence B and General Residence Districts for both conforming lots and lots that have less than 80 feet of frontage. The goal of this change is to reduce some of the negative effects of massing along the sideline. The present side yard setback provisions for the Single Residence B and General Residence Districts are somewhat complicated. The present situation is that lots created before January 9, 1986 are subject to a 10-foot side yard setback, and lots created after that date or on which “new construction” occurs are subject to a 12.5 foot side yard setback. An exception is provided for “new construction” on a nonconforming pre-1986 lot where the side yard setback is 10 feet.

What is proposed for the conforming lot is a side yard setback of 14 feet in conjunction with a stepped side line setback that works as follows: If you build the side of the house along the setback line, it can be extended for a distance of only 32 feet at the 14-foot setback line. Any additional length must be set back an additional two feet. So, under the proposed amendment, 32 feet of the house could be located 14 feet from the side lot line, the remainder would have to be at least 16 feet back from that line. As relates to the nonconforming lot (for frontage only), a side yard setback of 12 feet is proposed in conjunction with a stepped side line setback that works as follows: If you build the side of the house along the setback line, it can be extended for a distance of only 32 feet at the 12 foot setback line. Any additional length must be set back an additional two feet. So, under the proposed amendment, 32 feet of the house could be located 12 feet from the side lot line, the remainder would have to be at least 14 feet back from that line.

A lotting plan showing the existing side yard setback regulations and the proposed side yard setback regulations on both the conforming and nonconforming lot are shown as Figure 4 and Figure 5 respectively.

Figure 4:

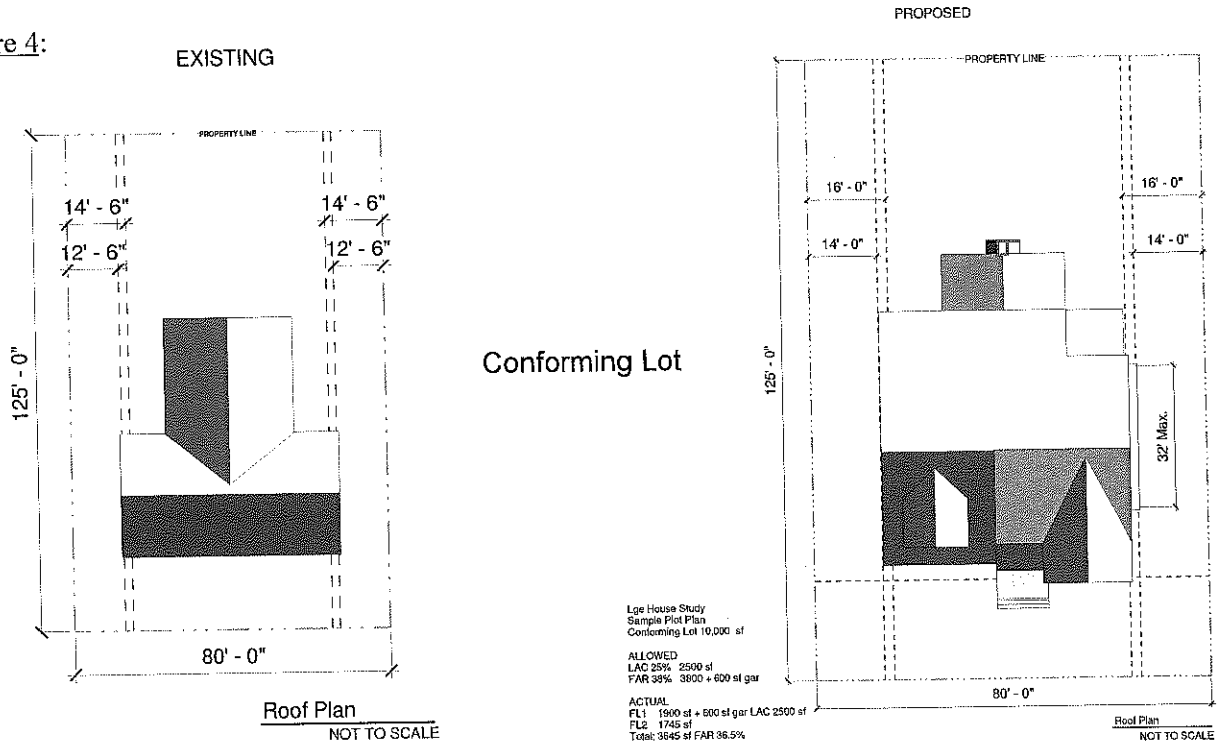
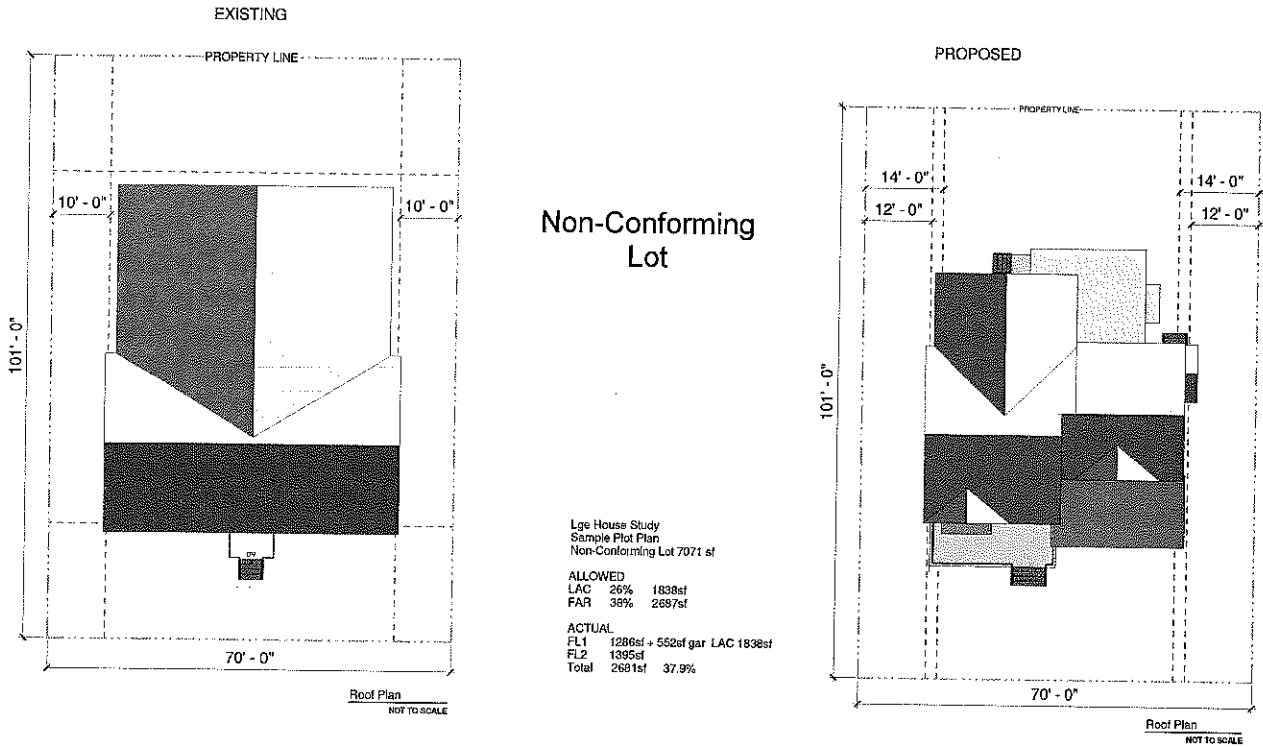


Figure 5:



Also shown are isometric drawings showing the same setback information on both the conforming and nonconforming lot, respectively (see Figure 6 and Figure 7).

Figure 6:

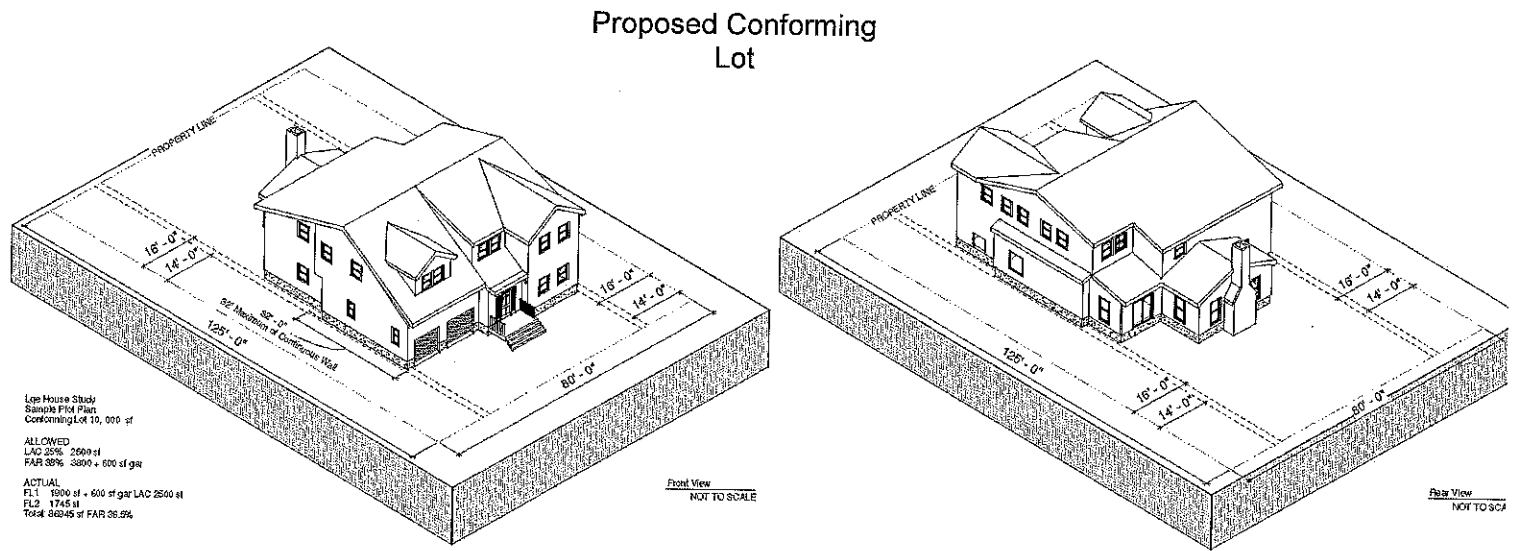
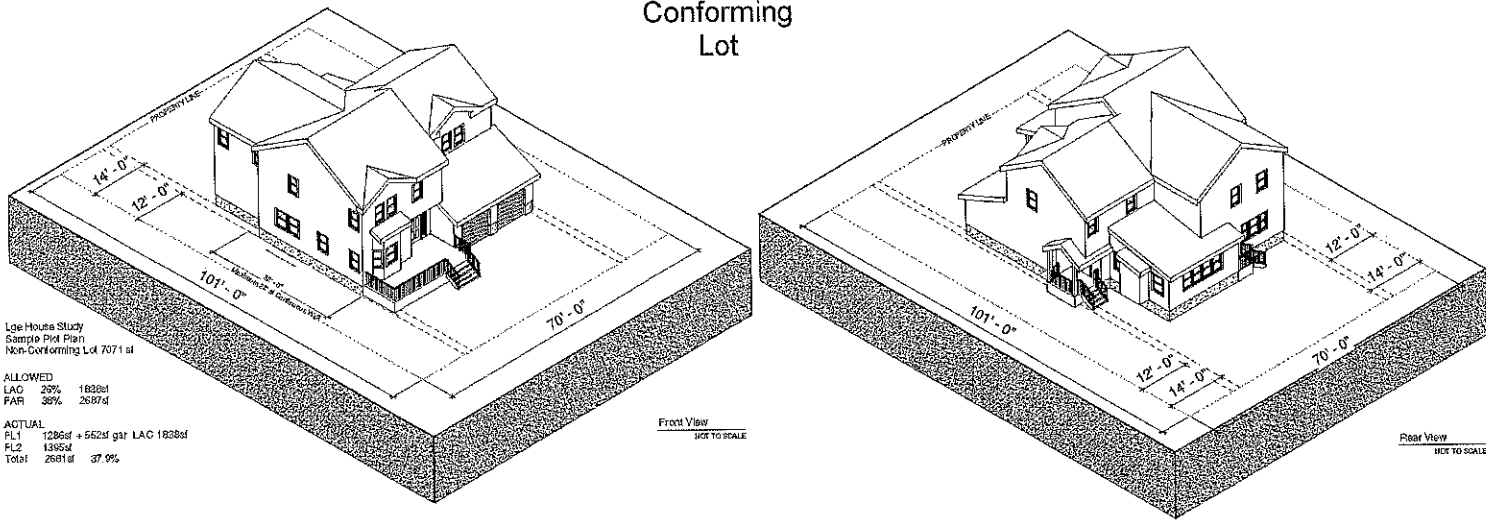


Figure 7:

Proposed Non-Conforming Lot



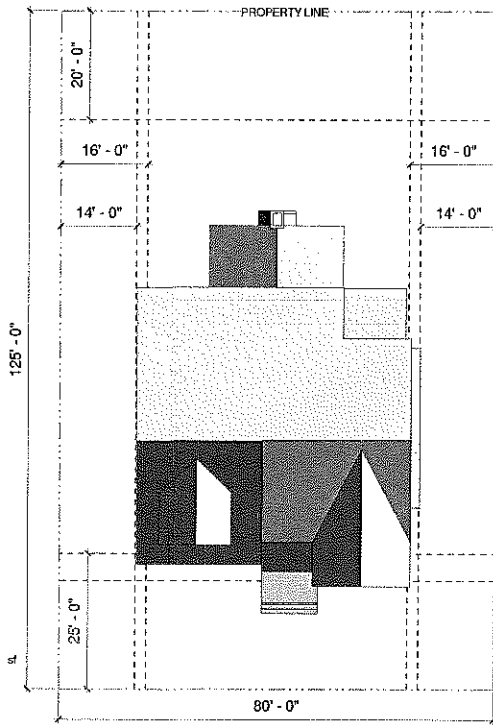
Finally, the article establishes an as-of-right process for alterations and extensions to existing single and two-family structures located in the Single Residence B or General Residence Districts that are rendered nonconforming for a side yard setback as a result of the passage of this article. Structures built upon a lot created by deed or plan endorsed or recorded before January 9, 1986 may be extended to a side yard setback of 10 feet and structures built upon a lot created by deed or plan endorsed or recorded on or after January 9, 1986 may be extended to a side yard setback of 12.5 feet. In all of the above-noted cases, the structure may not be sited closer to the side lot line than the farthest extent of the existing structure.

RE: Annual Town Meeting Article 28: Amend Zoning By-Law –Garage Setback in the Single Residence B and General Residence Districts

Article 28 establishes a new front yard setback requirement for an attached garage in the Single Residence B and General Residence Districts. Presently the front yard setback for a building or structure located in the noted districts is 20 feet. The article proposes to increase the required front yard setback for an attached garage from 20 feet to 25 feet. For corner lots the increased front yard setback is required along both frontage streets. The intent of the article is to encourage the break-up of the mass of the structure as it presents itself to the street edge by encouraging the placement of the house forward of the garage thus making the house the dominant visual element. This design approach would help reduce the overall perceptions of massing related to new home construction without significantly altering desired interior space composition. Additionally, siting of the garage at 25 feet assures that there is sufficient space from the garage doors to the edge of sidewalk for the parking of automobiles. Presently, placement of the garage doors at 20 feet has led to observed automobile intrusions onto the sidewalk edge. In applying this provision, the definition of “front yard setback” as adopted under Article 27 and now incorporated into Section 4.2 of the Zoning By-Laws shall control.

A roofing plan and a floor plan showing the proposed front yard setback requirement for an attached garage on both the conforming and nonconforming lot are shown as Figure 8 and Figure 9 respectively.

Figure 8:



Conforming Lot

Lge House Study
Sample Plot Plan
Conforming Lot 10,000 sf

ALLOWED
LAC 25% 2500 sf
FAR 38% 3800 + 600 sf gar

ACTUAL
FL1 1900 sf + 600 sf gar LAC 2500 sf
FL2 1745 sf
Total: 3645 sf FAR 36.5%

First Floor
NOT TO SCALE

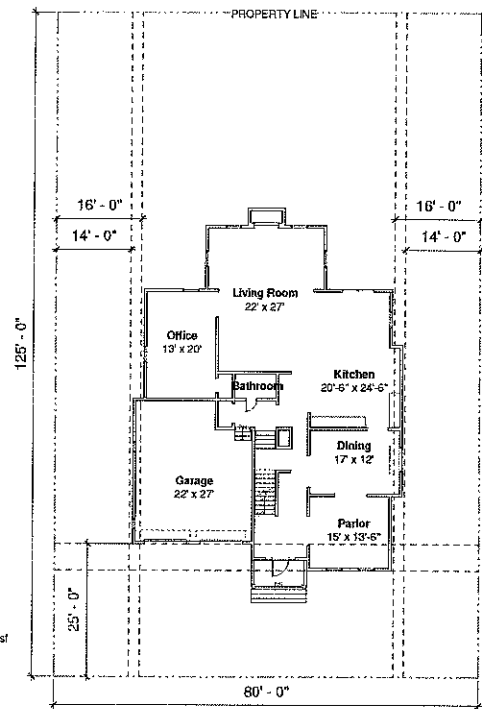
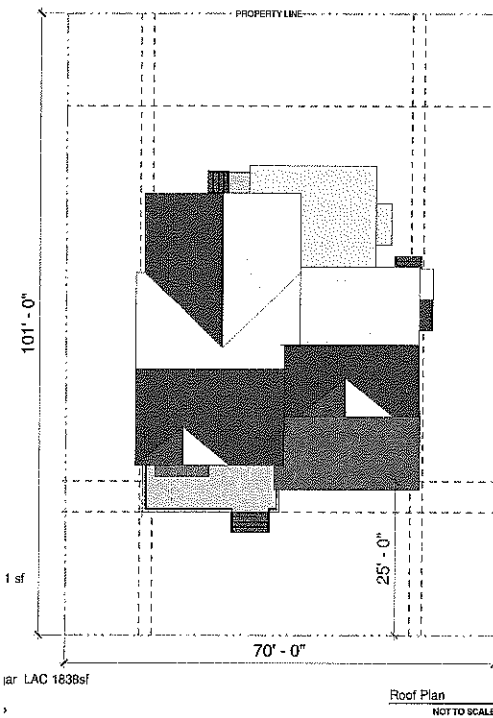


Figure 9:



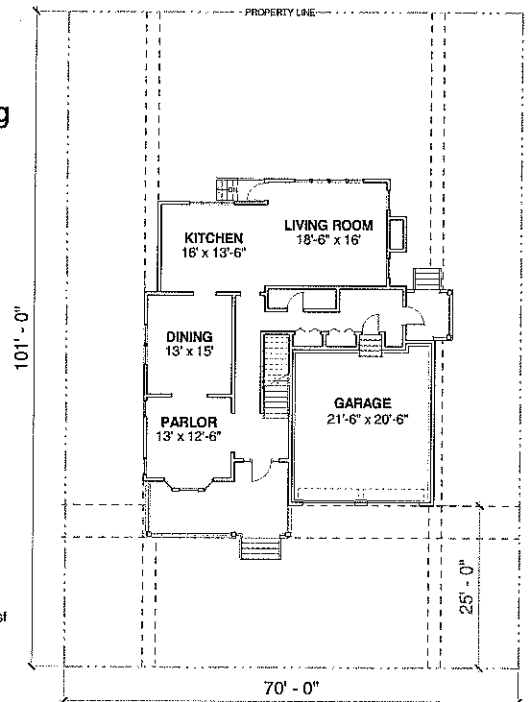
Non-Conforming Lot

Lge House Study
Sample Plot Plan
Non-Conforming Lot 7071 sf

ALLOWED
LAC 25% 1836sf
FAR 38% 2687sf

ACTUAL
FL1 1286sf + 552sf gar LAC 1838sf
FL2 1395sf
Total 2681sf 37.9%

First Floor
NOT TO SCALE



Finally, the article establishes an as-of-right process for alterations and extensions to existing single and two-family structures located in the Single Residence B or General Residence Districts that are rendered nonconforming as to front yard setback of an attached garage as a result of the passage of this article. Under the article, additions to existing single family or two-family structures that are non-conforming as to front yard setback of an attached garage and upon which a building permit for the existing structure was issued prior to June 1, 2017, would be permitted to be extended to a front yard garage setback of 20 feet as-of-right, provided any demolition of the existing structure does not exceed 50% of the building shell exclusive of demolition of a single story garage and further provided that the garage structure shall not be closer to the front lot line than the farthest extent of the existing garage structure. In implementing the relief provided by this provision, the definition of "setback" in Section 1.3 of the Zoning By-Laws shall control.

RE: Annual Town Meeting Article 29: Amend Zoning By-Law –Lot Coverage Requirement in the Single Residence B and General Residence Districts

Article 29 establishes a sliding scale lot coverage requirement for alterations and additions to existing residential buildings and structures located on all lots in the Single Residence B and General Residence Districts. The standard proposed under the article for alterations and additions to existing buildings and structures was adopted in 1999 for all lots located in the Single Residence B and General Residence Districts meeting the "new construction" definition as defined in the Zoning By-Law and is now proposed to be extended to the former. The amendment applies the lot coverage calculation on all lots in the Single Residence B and General Residence Districts and will if adopted uniformly apply the coverage standard across all residential construction whether new construction, alteration or addition.

"Lot coverage" is defined as a fraction, or percentage, calculated by dividing the square footage of the lot covered by buildings or structures (often called the "footprint"), by the square footage of the lot on which the building or structure is located. For purposes of calculating lot coverage unenclosed porches or landings, decks, patios, pools, and bulkheads are excluded.

RE: Annual Town Meeting Article 30: Amend Zoning By-Law –Front and Side Yard Special Permit Exceptions for Nonconforming Structures in the Single Residence B and General Residence Districts

Article 30 establishes a special permit process for alterations and extensions to existing single and two-family structures located in the Single Residence B or General Residence Districts that are rendered nonconforming for either a front yard setback to a garage or a side yard setback as a result of the passage of Articles 27 and 28 and where demolition exceeds more than 50% of the existing structure exclusive of a single story attached garage. Articles 27 and 28 allow additions by right to original setback limits if demolition does not exceed 50%.

Under Article 30, existing single or two-family structures that are non-conforming as to front yard setback of an attached garage may be altered, extended or structurally changed (but not reconstructed) to a front yard garage setback of 20 feet upon receipt of a special permit from the Board of Appeals. For those structures which are non-conforming relative to a side yard setback, a tiered special permit approach is provided as follows: (1) Structures built upon a lot created by deed or plan endorsed or recorded before January 9, 1986 may be extended to a side yard setback of 10 feet by special permit; and (2) Structures built upon a lot created by deed or plan endorsed or recorded on or after January 9, 1986 may be extended to a side yard setback of 12.5 feet by special permit. In all of the above-noted cases, the special permit from the Board of Appeals may not be issued unless the Board finds the proposed structure is sited no closer to the lot line than the farthest extent of the existing structure.

Finally, the article revises the definition of the term “new construction” so as to exclude from its regulated terms the following: (a) Any addition to an existing one-story structure which results in a gross floor area greater than 240% of the gross floor area of the existing structure; (b) Any addition to an existing one and one-half story structure which results in a gross floor area greater than 220% and (c) Any addition to an existing two-story or two and one-half story structure which results in a gross floor area greater than 175% of the gross floor area of the existing structure. With the establishment of the Floor Area Ratio requirement under Article 26 for all lots in the Single Residence B and General Residence Districts and the extension of the Lot Coverage requirement under Article 29 to building additions, building size is now effectively regulated through these alternative methods. Thus, references to addition size are no longer required within the definition of “new construction”.

RE: Annual Town Meeting Article 31: Amend Zoning By-Law –Temporary Moratorium on Recreational Marijuana Establishments and Marijuana Retailers

The Planning Board is requesting that the Zoning By-Law be amended to allow for a temporary moratorium on Recreational Marijuana Establishments and Recreational Marijuana Retailers. As laid out in the initiative passed on November 8, 2016, as amended by Chapter 351 of the Acts of 2016, the State Cannabis Control Commission must set forth regulations on the sale and use of recreational marijuana by March 15, 2018. However, the use of recreational marijuana is legal as of December 15, 2016. Due to this lag time and the failure of the law to clearly specify the extent to which cities and towns may regulate the location of these facilities, the Town is seeking a temporary moratorium on the sale of recreational marijuana so that appropriate officials can await guidance from the state on the various rules and regulations that will eventually be determined by the State Cannabis Control Commission. This moratorium will expire on December 31, 2018. It is anticipated that the Town will repeal the temporary moratorium either during or before the Special Town Meeting in the fall of 2018 and replace it with an applicable Zoning By-Law. An identical process was followed in 2013 when the Town enacted a temporary moratorium on medical marijuana dispensaries and replaced it with a Zoning By-Law amendment in 2015.

RE: Special Town Meeting Article 11: Amend Zoning By-Law – Veterinary Uses in the Mixed Use-128 District

This article is submitted on the petition of Anne Marie Doyle, et al. The petition seeks to change the Town’s Zoning-By-Law to expand allowed animal boarding uses in the Mixed Use 128 District. Zoning provisions adopted by the Town in 2001 allow veterinary offices and/or treatment facilities by special permit in the Mixed Use-128 District, but limit stays to convalescent stays only thus expressly disallowing the board of animals. This has served to effectively prohibit veterinary uses, as such offices commonly provide boarding as a service to their clients. Given the “convalescent stays” limitation, business models offering not only sitting, training, and care, but also boarding cannot be located in the Mixed Use-128 District.

The Petitioner will offer a motion to amend under Article 11. The intent of the amendment is to correct a typographical error. The Planning Board has voted to support the article in its amended form and will offer its full report at Town Meeting.