

LEGAL NOTICE
Planning Board
TOWN OF NEEDHAM
NOTICE OF HEARING

In accordance with the provisions of M.G.L., Chapter 40A, S.5, the Needham Planning Board will hold a public hearing on Tuesday, January 29, 2019 at 7:15 p.m. in the Needham Town Hall, Powers Hall, 1471 Highland Avenue, Needham, Massachusetts, regarding certain proposed amendments to the Needham Zoning By-Law to be considered by the May 2019 Annual Town Meeting. Persons interested are encouraged to call the Planning Board office (781-455-7550) for more information. A copy of the text of the proposed article will be mailed on request. Copies of the text and any plans referred to may also be examined in the offices of the Planning Board, 500 Dedham Avenue, Needham, Massachusetts.

The proposed amendment is identified below in terms of subject matter. The article designation given has been assigned by the Planning Board for identification purposes only. An article number will subsequently be established by the Selectmen for the Warrant.

ARTICLE 1: AMEND ZONING BY-LAW – HIGHWAY COMMERCIAL 1 ZONING DISTRICT

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

1. Amend Section 2.1, Classes of Districts, by adding the following term and abbreviation under the subsection Industrial:

“HC1 -- Highway Commercial 1”

2. Amend Section 3.2, Schedule of Use Regulations, by adding a new Section 3.2.7 as follows:

“3.2.7 Uses in the Highway Commercial 1 District

3.2.7.1 Permitted Uses

The following uses are permitted within the Highway Commercial 1 District as a matter of right:

- (a) Uses exempt from local zoning control pursuant to M.G.L. Chapter 40A, Section 3.
- (b) Public parks and playgrounds, municipal buildings or uses.
- (c) Retail establishment or combination of retail establishments serving the general public where each establishment contains less than 10,000 square feet of floor area and where all items for sale or rent are kept inside a building.
- (d) Manufacturing clearly incidental and accessory to a retail use on the same premises and the product is customarily sold on the premises.
- (e) Craft, consumer or commercial service establishment dealing directly with the general public.
- (f) Laundry or dry cleaning pick-up station with processing done elsewhere.

(g) Professional, business or administrative office, but not including any of the following: a medical clinic or Medical Services Building or medical, surgical, psychiatric, dental, orthodontic, or psychologist group practices comprised of three or more such professionals (hereinafter “Group Practices”) or physical therapy, alternative medicine practices, wellness treatments, including but not limited to, acupuncture, yoga, chiropractic and/or nutrition services. “Professional” shall include professional medical, surgical, psychiatric, dental, orthodontic or psychologist practice by a group of two or fewer such professionals (“Non-group Practice”).

(h) Bank or Credit Union.

(i) Wholesale distribution facilities in an enclosed structure, excluding the storage of flammable liquids, gas or explosives.

(j) Medical laboratory or laboratory engaged in scientific research and development, and experimental and testing activities including, but not limited to, the fields of biology, genetics, chemistry, electronics, engineering, geology, medicine and physics, which may include the development of mock-ups and prototypes.

(k) Radio or television studio.

(l) Light non-nuisance manufacturing, including but not limited to the manufacture of electronics, pharmaceutical, bio-pharmaceutical, medical, robotic, and micro-biotic products, provided that all resulting cinders, dust, flashing, fuses, gases, odors, smoke, noise, vibration, refuse matter, vapor, and heat are effectively confined in a building or are disposed of in a manner so as not to create a nuisance or hazard to safety or health.

(m) Telecommunications facility housed within a building.

(n) Other customary and proper accessory uses incidental to lawful principal uses. Further provided, accessory uses for seasonal temporary outdoor seating for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter shall be allowed upon minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board or Board of Selectmen in accordance with Section 6.9.

(o) More than one building on a lot.

(p) More than one use on a lot.

3.2.7.2 Uses Permitted By Special Permit

The following uses are permitted within the Highway Commercial 1 District upon the issuance of a Special Permit by the Special Permit Granting Authority under such conditions as they may require:

(a) Public light-rail train station.

(b) Adult day care facility.

(c) Private school, nursery, or kindergarten not otherwise classified under Section 3.2.7.1.

(d) Retail establishment or combination of retail establishments serving the general public where each establishment contains more than 10,000 but less than 25,000 square feet of floor area and where all items for sale or rent are kept inside a building.

(e) Equipment rental service but not including any business that uses outside storage.

(f) Hotel.

(g) Eat-in or take-out restaurant or other eating establishment except that a lunch counter incidental to a primary use shall be permissible by right.

(h) Veterinary office and/or treatment facility and/or animal care facility, including but not limited to, the care, training, sitting and/or boarding of animals.

(i) Indoor athletic or exercise facilities or personal fitness service establishment and/or outdoor pool(s) associated with such facilities.

(j) External automatic teller machine, drive-up window or auto-oriented branch bank accessory to a bank or credit union permitted under Section 3.2.7.1(h) hereof.

(k) Off-street parking for vehicles associated with a principal use located on a lot that comprises land in two or more districts where the use is not otherwise allowed in the district in which the parking is to be located.

l) Group Practices as defined in Section 3.2.7.1 and alternative medicine practices, physical therapy, and wellness treatments facilities including, but not limited to, acupuncture, yoga, chiropractic and/or nutrition services. Such uses may have customary and proper accessory uses incidental to the lawful principal uses, including but not limited to, pharmacies. If the principal use is located on the ground floor, then the affiliated pharmacy may be located there also.

(m) Live performance theaters, bowling alleys, skating rinks, billiard rooms, and similar commercial amusement or entertainment places.”

3. Amend Section 4.7.1, Specific Front Setbacks, by deleting the following provisions:

“(b) On the easterly side of Gould Street from Highland Avenue northerly to land of the New York, New Haven and Hartford Railroad Company, there shall be a fifty (50) foot building setback line;

(c) On the northerly side of Highland Avenue from Gould Street northeasterly to the property of the Commonwealth of Massachusetts, there shall be a fifty (50) foot building setback line.”

4. Amend Section 4, Dimensional Regulations, by adding a new Section 4.11 Dimensional Regulations for Highway Commercial Districts as follows:

“4.11 Dimensional Regulations for Highway Commercial Districts

4.11.1 Highway Commercial 1

Minimum Lot Area (Sq. Ft.)	Minimum Lot Frontage (Ft.)	Front Setback (Ft.) (1)	Side Setbacks (Ft.) (1) (3)	Rear Setback (Ft.) (3)	Maximum Height (Ft.) (1)	Maximum Lot Coverage (2) (4) (7)	Floor Area Ratio (5) (6)
20,000	100	5	10	10	70	65%	1.00

(1) All buildings shall be limited to a height of 70 feet, except that, buildings within 50 feet of Highland Avenue and/or Gould Street shall be limited to a height of 54 feet unless the additional height is contained under a pitched roof or recessed from the face of the building in a manner approved by the Planning Board. Notwithstanding the forgoing, the Planning Board may allow by special permit a maximum height of up to 84 feet except within 50 feet of the aforementioned

streets. 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. Buildings and structures abutting Highland Avenue and/or Gould Street shall be set back at least 20 feet from said streets. Notwithstanding the location of any building and structures, a 20 foot landscaped, vegetative buffer area shall be required along the aforementioned street frontages in order to screen the development. Driveway openings, sidewalks, walkways and screened mechanical equipment shall be permitted in the buffer area. Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air conditioning equipment, solar or photovoltaic panels, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height. The Planning Board may require screening for such structures as it deems necessary. Notwithstanding the above height limitations, cornices and parapets may exceed the maximum building height provided they do not extend more than 5 feet above the highest point of the roof.

- (2) Maximum lot coverage shall be 65% for all projects. 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%.
- (3) No side or rear yard is required for shared parking structures between adjoining properties, but only on one side of each lot, leaving the other side- or rear yards open to provide access to the interior of the lot.
- (4) A minimum of 20% of total lot area must be open space. The open space area shall be landscaped and may not be covered with buildings or structures of any kind, access streets, ways, parking areas, driveways, aisles, walkways, or other constructed approaches or service areas. 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.)
- (5) A floor area ratio of up to 1.75 may be allowed by a special permit from the Planning Board. In granting such special permit, the Planning Board shall consider the following factors: the ability of the existing or proposed infrastructure to adequately service the proposed facility without negatively impacting existing uses, including but not limited to, water supply, drainage, sewage, natural gas, and electric services; impact on traffic conditions at the site, on adjacent streets, and in nearby neighborhoods, including, but not limited to, the adequacy of the roads and intersections to safely and effectively provide access and egress; the environmental impacts of the proposal; and the fiscal implications of the proposal to the Town. In granting a special permit, the Planning Board shall also consider any proposed mitigation measures and whether the proposed project's benefits to the Town outweigh the costs and adverse impacts, if any, to the Town. 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.

- (6) The calculation of floor area in determining floor area ratio shall not include parking areas or structures.

4.11.2 Supplemental Dimensional Regulations

- (1) Parking structures and surface parking lots may not be located such that they front on public parks.
- (2) Parking structures may have an active ground floor use, such as retail, office, institutional, or display, on sides facing a public way. Structured parking must be located at least 20 feet from adjacent buildings, but may be attached to the building it is servicing if all fire and safety requirements can be met.
- (3) Buildings must have a public entrance facing one street on which the building fronts.
- (4) Maximum uninterrupted facade length shall be 300 feet.

4.11.3 Special Permit Provision

The Planning Board may, by special permit, waive any or all dimensional requirements set forth above in this Section 4.11 (including sections 4.11.1 and 4.11.2), 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. This section does not authorize the Planning Board to waive the maximum height regulations or reduce the 20 foot landscaped buffer area requirement along the streets specified, except as specifically provided in Sections 4.11.1 and 4.11.2 . (By way of example, a 15' front yard setback could be waived to 11.25'; the 65% lot coverage could be waived to 81.25%; or the 20,000 sq. ft. minimum lot area could be waived to 15,000 sq. ft.)”

5. Amend Section 5.1.3, Parking Plan and Design Requirements, by adding at the end of the second sentence of subsection (j) which reads “Such parking setback shall also be twenty (20) feet in an Industrial-1 District” the words “and Highway Commercial 1 District.”
6. Amend Section 7.2.5 of Section 7.2 Building or Use Permit, by adding after the words “Industrial-1 District,” in the first sentence, the words “Highway Commercial 1 District,”.
7. Amend Section 7.7.2.2, Authority and Specific Powers (of Design Review Board) by adding after the words “Industrial-1 District,” in the first sentence of the second paragraph, the words “Highway Commercial 1 District,”.

ARTICLE 2: AMEND ZONING BY-LAW – MAP CHANGE TO HIGHWAY COMMERCIAL 1

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

Place in the Highway Commercial 1 District all that land now zoned Industrial-1 and lying between the Circumferential Highway, known as Route 128/95 and Gould Street and between the Massachusetts Bay Transit Authority (M.B.T.A.) right-of-way and Highland Avenue. Said land is bounded and described as follows:

Beginning at a stone bound on the northerly layout line of Highland Avenue at the intersection of Gould Street as shown on a plan recorded at the Norfolk County Registry of Deeds, Plan No. 564 of 2001, Plan Book 489; thence turning and running southwesterly, westerly and northwesterly along a radius of 44.00

feet a distance of 80.06 feet to a stone bound on the easterly sideline of Gould Street; thence running northwesterly, northerly, and northeasterly along a curve of radius of 505.00 feet of said sideline of Gould Street a distance of 254.17 feet to a point on the said easterly sideline of Gould Street; thence running N10°49'50"E a distance of 284.29 feet to a point on the said easterly sideline of Gould Street at the intersection of TV Place, a privately owned Right of Way; thence continuing N10°49'50"E a distance of 324.30 feet more or less to a stone bound; thence continuing N10°49'50"E a distance of 84.82 feet to a stone bound located at the intersection of the easterly sideline of Gould Street and the southerly sideline of the M.B.T.A. Right of Way as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430; thence turning and running along said southerly M.B.T.A. Right of Way line northeasterly a distance of 1,219.55 feet to a point at the intersection of the westerly sideline of the Route 128 Right of Way and said southerly sideline of the M.B.T.A. Right of Way; thence turning and running S4°25'46"E a distance of 292.00 feet to a stone bound; then turning and running southwesterly along the Route 128 Right of Way a distance of 549.11 feet to a point; thence turning and running S13°34'58"W a distance of 451.02 feet to a point; thence turning and running S76°26'41"E a distance of 35.56 feet to a point; thence turning and running S13°34'58"W a distance of 67.34 feet to a point; thence running southwesterly along a curve of radius 245.45 feet a distance of 136.59 feet to a point; thence running southwesterly along a curve of radius 248.02 feet a distance of 38.04 feet to a point; thence running southwesterly along a curve of radius 1180.00 feet a distance of 140.09 feet to a point; thence turning and running S42°43'47"W a distance of 42.52 feet to a stone bound located in the westerly sideline of the Route 128 Right of Way; thence turning and running S63°56'51"W a distance of 361.46 feet to the point of beginning.

ARTICLE 3: AMEND ZONING BY-LAW – ACCESSORY DWELLING UNIT

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

1. Amend Section 1.3, Definitions, by adding the following term and definition in the appropriate alphabetical order:

“Accessory Dwelling Unit (ADU) – An apartment in a single-family detached dwelling that is a second, self-contained dwelling unit and a complete, separate housekeeping unit containing provisions for living, sleeping, cooking and eating. This unit is subordinate in size to the principle dwelling unit on a lot, constructed to maintain the appearance and essential character of the single-family dwelling.”

2. Amend Section 3.2, Schedule of Use Regulations, Subsection 3.2.1, Uses in the Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, Apartment A-2, Apartment A-3, Institutional, Industrial and Industrial-1 Districts, by inserting immediately above the row that reads “Café or lecture room associated with a private school” a new entry, which shall read as follows:

“ <u>USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1,2</u> & 3	<u>I</u>	<u>IND</u>	<u>IND-1</u>
Accessory Dwelling Unit (See 3.15)	SP	SP	SP	SP	SP	SP	SP”

3. Amend Section 3.2, Schedule of Use Regulations, Subsection 3.2.2, Uses in the Business, Chestnut Street Business, Center Business, Avery Square Business and Hillside Avenue Business Districts, by inserting immediately above the row that reads “Café or lecture room associated with a private school” a new entry, which shall read as follows:

“ <u>USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
Accessory Dwelling Unit (See 3.15)	SP	N	N	SP	SP”

4. Amend Section 3.2.3, Uses in the Neighborhood Business District, Subsection 3.2.3.2, Uses Permitted by Special Permit, by inserting a new paragraph (c) that reads “Accessory Dwelling Unit under Section See 3.15” and by renumbering former paragraphs (c) thru (o) as (d) thru (p) respectively.
5. Amend Section 3, Use Regulations, by adding a new Section 3.15, Accessory Dwelling Units (ADUs), to read as follows:

“3.15 Accessory Dwelling Units (ADUs)

3.15.1 Intent

The intent and purpose of this section is to permit accessory dwelling units (ADUs) in single-family homes for occupancy by family and caregivers related to the owners of the property subject to the standards and procedures hereinafter set forth. It is also the intent to assure that the single-family character of the neighborhood will be maintained and that the accessory unit remains subordinate to the principal use of the living quarters.

3.15.2 Definition

The accessory dwelling unit (ADU) is an apartment in a second, self-contained dwelling unit as part of a single-family detached dwelling serving as a complete, separate housekeeping unit containing provisions for living, sleeping, cooking and eating. This unit shall be subordinate in size to the principle dwelling unit on a lot, constructed to maintain the appearance and essential character of the single-family dwelling.

3.15.3. Use Regulations

Such accessory dwelling unit (ADU) shall be permitted upon the issuance of a Special Permit by the Board of Appeals under the following use regulations:

- (a) There shall be no more than one accessory dwelling unit on a lot to be located in the primary dwelling only, not in accessory buildings.
- (b) At least one of the units, the primary or accessory dwelling unit, shall be owner-occupied except for temporary absences of the owner as provided herein. For the purposes of this section, the "owner" shall be one or more individuals who constitute a family, who hold title directly or indirectly to the dwelling, and for whom the dwelling is the primary residence. Temporary absence of an owner of a property containing an accessory dwelling unit shall include an absence for a period of less than two years during which time the owner may rent the owner's unit as well as the second unit during the temporary absence provided:
 - (1) Written notice thereof shall be made to the Building Commissioner on a form prescribed by him.
 - (2) The owner shall be resident on the property for at least two years prior to and between such temporary absences.
- (c) Occupancy of the unit that is not owner-occupied unit shall be limited to a member of the owner's family related by first degree of kinship, marriage or adoption or by a caregiver for a member of the owner's family.
- (d) The size of the accessory dwelling unit shall be limited to 850 square feet of living space and no more than one bedroom.

- (e) Off-street parking shall be provided for residents of both units with a minimum of one parking space per unit. There shall be screening in the area between the parking space required for the accessory dwelling unit and the nearest side lot line sufficient to minimize the visual impact on abutters such as evergreen or dense deciduous plantings, walls, fences, or a combination.
- (f) Adequate provisions for the proper disposal of sewage, waste, and drainage generated by the accessory dwelling unit shall be in accordance with Board of Health requirements.
- (g) Adequate provisions shall be required for compliance with the Massachusetts State Building Code for separate ingress and egress to the outside of each unit as determined by the Building Commissioner. To the extent possible, exterior passage ways and access ways shall not detract from the single-family appearance of the dwelling. An interior door way shall be provided between each living unit as a means of access for purposes of supervision and emergency response. All stairways to additional floors shall be enclosed within the exterior walls of the structure. Only one exterior entrance is allowed on a front facing façade of a dwelling with any other exterior entrances restricted to the side or rear of the structure.
- (h) The owner of record shall be responsible for submitting an accessory dwelling unit application to the Building Commissioner. Floor plans of the accessory unit and principal residence, along with a certified site plan, shall also be submitted with the application to the Building Commissioner. Appropriate fees as established and recorded shall be assessed for the initial application and each renewal of the occupancy permit as determined by the Building Commissioner.
- (i) The installation of the accessory dwelling unit shall require the issuance of a building permit by the Building Commissioner.
- (j) Occupancy of the accessory dwelling unit shall not take place without proof of the recorded Special Permit and an occupancy permit issued by the Building Commissioner. The initial occupancy permit shall remain in force for a period of five (5) years from the date of issue provided that ownership of the premises is not changed. Thereafter, permits may be issued by the Building Commissioner for succeeding five-year periods provided that the structure and use continue to comply with the relevant provisions of the State Building Code and Needham By-laws. Occupancy permits shall not be transferable upon a change in ownership or occupancy unless an affidavit is presented to the Building Commissioner attesting to the fact that the circumstances under which the occupancy permit was granted shall continue to exist in the future.
- (k) In the case that the accessory dwelling unit has violated the terms of the Special Permit or the lawful use of such unit has expired or been terminated, the Building Commissioner may, in addition to other remedies, order the removal of any one or more of the provisions that create a separate dwelling unit, such as living, sleeping, cooking and eating. Upon the close and approval of permits required to remove such components will return the property back to a lawful single-family dwelling.”

Copies of the articles are available for public inspection at the Planning Board Office, 500 Dedham Avenue, Needham, Massachusetts. Interested persons are encouraged to attend the public hearing and make their views known to the Planning Board. This legal notice is also posted on the Massachusetts Newspaper Publishers Association’s (MNPA) website at (<http://masspublicnotices.org/>).

Needham Times, December 27, 2018 and January 3, 2019.