



TOWN HALL  
4 Boltwood Avenue  
Amherst, MA 01002-2351

PLANNING BOARD  
(413) 259-3040  
(413) 259-2402 [Fax]  
[planning@amherstma.gov](mailto:planning@amherstma.gov)

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## Article 12. Single Family Dwellings (Planning Board)

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To amend Section 3.320 and Article 12 of the Zoning Bylaw by deleting the ~~lined-out~~ language, adding the language in *bold italics*, and re-enumerating sections, as follows:

~ SEE WARRANT ~

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### Recommendation

The Planning Board split evenly, voting 4-4 on a motion to recommend that Town Meeting adopt Article 12. Four of the Board members believe that this change is needed to establish a zoning permitting process where none now exists, in order to ensure notification of abutters regarding a pending conversion, and to better regulate the proliferation of single family rentals. The other four members of the Board believed that this proposed zoning change is too intrusive in terms of its potential impact on the economic lives of Amherst's homeowners, and that the desired result can be better achieved through the rental permit regulations currently in development for consideration by the 2013 Annual Town Meeting.

### Background

Article 12 is part of a much larger effort to address Amherst's housing needs, one of five zoning amendments being presented to the Fall 2012 Special Town Meeting to improve the regulation of specific categories of rental housing in Amherst. Since this last June, the Planning Board has examined the zoning requirements for single family, two family, and converted dwellings being used as rental properties in Amherst, and is proposing amendments to increase zoning regulation over those uses, and to clarify a number of zoning definitions.

Zoning alone cannot fully or effectively regulate rental housing. The most effective approach is multi-faceted and comprehensive, using zoning, health and building codes, and, most importantly, a system of rental regulations operating under Amherst's General By-Laws. Such a system of rental regulations is currently in development, with the intent to bring it to the 2013 Annual Town Meeting for review and adoption.

In the interim, the Planning Board feels that it is important to improve the existing zoning regulations as part of the overall regulatory approach. The amendments contained in Article 12 were developed specifically address the rental of single family dwellings.

In recent years, single (and two) family dwellings in Amherst have been converting from owner-occupied properties to non-owner occupied properties at an increasing rate. This is the result of a complex set of housing market factors, but property owners and speculators have discovered this new, ‘by-right’ way to reuse Amherst’s limited supply of housing to generate significant rental income and they have been pursuing it energetically.

The impacts of introducing increased numbers of student rentals—too often unmanaged or poorly managed—into existing residential neighborhoods have been marked and largely negative. The neighborhoods nearest to the UMass campus have been the hardest hit, but student rentals have spread into every neighborhood in the community in unprecedented numbers and effect.

Data collected by the Amherst Assessor indicate that these conversions have been accelerating in recent years.

<u>Year</u>	<u>Owner-Occupied to Non-Owner Occupied Conversions*</u>
<b>2009</b>	<b>8</b>
<b>2010</b>	<b>10</b>
<b>2011</b>	<b>13</b>
<b>2012 to date</b>	<b>20 (27 projected)</b>

\* Single family and two family dwellings only.

Data collected by Prof. Rolf Karlstrom has also demonstrated the degree to which these conversions are occurring in campus edge neighborhoods in the R-G District and has highlighted the link between the absence of owner occupancy and problem behaviors resulting in visits by the Amherst Police Department and EMTs in response to noise or nuisance house behaviors (parties and underage drinking), fights, and alcohol-related sickness or injuries.

Single Family Dwellings

Under the current Zoning Bylaw, single family dwellings are permitted by right, and there is no permit required in order to rent a single family dwelling. For decades, it was assumed that single family dwellings were occupied by families, and so these residential uses enjoyed

significant protections from local zoning regulation under state law. But the vestigial assumption that single family dwellings will be occupied by related families has not been valid in Amherst for many decades. Further, changing national and regional demographics are increasing the demand for rental housing for all households. That increased demand, combined with Amherst's unique housing market, has caused the Planning Board to examine a different and new regulatory approach to single family rentals under Amherst's zoning.

Article 12 proposes to divide the existing single family dwelling use category into two separate categories:

***Class I Single Family Dwelling*** - Under the first category, traditional uses of single family residences—owner-occupancy by an individual or family, or rentals to related households (i.e., households not constituting a group of unrelated persons)—would continue to be allowed by right, as they are at present.

***Class II Single Family Dwelling*** - The second use category would regulate single family dwellings where: 1) no owner occupant is present, and 2) the dwelling unit is rented to a group of up to four unrelated persons. This is a residential use, but one being operated with aspects of a commercial enterprise. It has distinctly different and higher negative impacts on its surroundings. For this reason, Class II single family dwellings would be allowed only under a Special Permit. The current definition of single family dwelling in the Zoning Bylaw is amended to correspond to the changes proposed to the use category.

Amherst's Town Counsel has reviewed this amendment. He indicates that it is probably the first attempt in Massachusetts to regulate single family rentals in this way. However, Town Counsel believes that this is an eminently defensible way to regulate the impacts of single family rental properties in Amherst.

### Public Hearing

The Planning Board held a public hearing for Article 12 on October 3 (hearing continued) and October 17. There was extensive public comment. After discussion, the Planning Board vote was split evenly, 4-4, on a motion to recommend that Town Meeting adopt Article 12. The Board agreed to present the arguments for both sides of the issue, and let Town Meeting decide.