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Article 13. Two Family Dwelling (Duplex) (Planning Board)

To amend Section 3.321 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 ~

Recommendation

The Planning Board voted unanimously, 8-0, to recommend that Town Meeting adopt Article 13.

Background

Article 13 is part of the larger effort to improve rental housing regulations in Amherst which are most appropriately governed under zoning. Under the current Zoning Bylaw, two family dwellings (duplexes) in the General Residence (R-G) and Village Center Residence (R-VC) districts near Amherst's mixed use center are permitted by right through Site Plan Review (SPR) approval, and require a Special Permit in all outlying zoning districts (R-N, R-O, R-LD).

A year and a half ago, the Planning Board brought an amendment (Article 29) to the 2011 Annual Town Meeting seeking to change the permit requirement for two family dwellings in the R-G and R-VC districts from SPR to Special Permit and, while a strong majority of Town Meeting supported that amendment, it fell six votes shy of achieving the 2/3s super-majority required for adoption. There was at the time some confusion over the purpose and effect of the amendment, with some citizens insisting that instead of its stated purpose of making it more difficult to create duplexes in the R-G and R-VC districts, Article 29 would make it easier.

The conversion of two family dwellings from owner-occupied properties to non-owner occupied properties has been a major contributor to the spread of poorly managed rental properties in Amherst.

Article 13 would do several things:

Create Two Use Categories - It would divide the existing use category for duplexes into two separate use categories:

- **Owner Occupied Duplex** – Under this category, a resident owner would occupy one or both dwelling units as their principal residence, and the use would be regulated the same way duplexes are currently regulated—Site Plan Review approval in R-G and R-VC, and Special Permit in every other residence district.
- **Non-owner Occupied Duplex** – Under this category, no owner occupant would be present. These uses would be allowed only under a Special Permit in all residential districts, and would require professional property management.

Clarify the Definition of a Duplex - The definition of two family detached dwelling (duplex) would be amended to correspond to the changes proposed to the use category and to clarify a longstanding confusion about whether a two family dwelling created through some amount of expansion and renovation was a duplex or a converted dwelling.

- **Mostly Through New Construction** - In combination with proposed amendments under Article 14 to the definition of converted dwellings, a duplex would come to mean any two family dwelling built as:
 - ~ A brand new structure built on an open site or following demolition, or
 - ~ An expanded structure where a second unit was added to an existing single family dwelling via a new addition that constituted more than 20% of the total final habitable space.

So a duplex would be a two family dwelling principally created through new construction, including additions and expansions involving new construction and renovations.

- **Not Through Conversion** - By contrast, two unit residences created principally through the interior ‘conversion’ of existing residential or non-residential structures resulting from renovation and reconstruction would not be considered duplexes. Those two unit residences would be considered converted dwellings, and would be regulated under that residential use category. See report for Article 14.

Public Hearings

The Planning Board held a public hearing on Article on October 3 (opened and continued) and October 17. After extensive public comment, and further discussion, the Planning Board voted unanimously, 8-0, to recommend that Town Meeting adopt Article 13.