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Article 14. **Converted Dwelling (Planning Board)**

To amend Section 3.3241 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, 9-0, to recommend that Town Meeting adopt Article 14. Together with the other Planning Board amendments proposed regarding smaller residential uses, Article 14 clarifies existing confusions, and helps to address the appropriate regulation of Amherst's residential rental properties.

Background

Article 14 is the third part of the effort to improve the regulation of rental housing in Amherst through zoning. Under the current Zoning Bylaw, converted dwellings require a Special Permit in all residential zoning districts.

Converted dwellings can include two or more dwelling units. Converted dwellings first appeared in zoning bylaws after WWII, as communities responded to one aspect of the rapid growth of their populations—conversion of large old former single family homes to multi-unit dwellings. Converted dwellings as use category first appeared in Amherst sometime between 1940 and 1958.

Duplexes, apartments, or town houses are identified strongly, though not exclusively, by the number of dwelling units they include. “Converted dwellings” are different. They are identified and regulated as a residential use category mostly on the basis of how new units are created. This allowed communities to regulate the conversion of large older homes in ways that protected the historical character of existing historic buildings and preserved the design and use patterns of existing older neighborhoods.

This history of public purpose is not always apparent. Amherst's Zoning Bylaw has not well reflected this original intent, and has not made clear the distinctions between converted dwellings and other residential uses that contain the same number of dwelling units.

For years, for instance, it has been possible for a property owner seeking to change their single family dwelling to a two family dwelling to pick and choose between use categories and the different permit options they offered. A converted dwelling consistently requires a Special Permit in all residential zoning districts. A property owner who was converting an existing single family structure into a two family mostly through internal division of the building could in some zoning districts seek a permit for a duplex, which would be allowed by right through Site Plan Review approval.

In the context of the recent proliferation of the conversion of single family owner occupied properties to single or two family rental units, this lack of clarity has been a problem.

What Article 14 Will Do

Article 14 seeks to do several things:

Clarify the Definition - Together with the proposed changes under Article 13, Article 14 will clarify the definition of converted dwellings, so that it is no longer possible to pick and choose between residential use types.

A converted dwelling will be a multi-unit building created mostly through the 'conversion' and renovation of existing buildings and structures, with a minimum of new footprint or reconstruction following demolition—no more than 20% of total resulting habitable space, with up to 40% possible under limited circumstances, if specific criteria are met.

By contrast, as was noted under Article 13, a duplex will come to mean a two family dwelling principally created through new construction, including additions and expansions involving new construction and renovations.

If Article 14 is adopted, it will no longer be possible for property owners to 'permit shop' among the existing residential use categories in search of an easier permit path.

Strengthen the Original Purpose – Article 14 will reinforce and strengthen the original purposes of converted dwellings—the preservation of significant historic residential buildings, and the protection of neighborhood character. It will also support a new purpose, that of sustainability. By limiting the amount of expansion on the ground from new construction, and by encouraging conversions which reuse existing built fabric and honor historic character, the

converted dwelling use category will better protect and reinforce Amherst's historic residential neighborhoods.

Reduction in Maximum Density - Since 1984, it has been possible to convert a residential building in the General Residence (R-G) and Village Center Residence (R-VC) districts to as many as six (6) units, while the maximum number of dwelling units in a converted dwelling use in outlying districts (R-N, R-O, and R-LD) was four (4) units. Article 14 proposes to reduce the maximum density in converted dwellings in the R-G and R-VC districts to four (4) units.

Clarifying the Rules for Conversion of Outbuildings – The current zoning language governing the conversion of outbuildings establishes both a minimum size (a footprint of 500 sq. ft.— appearing in the Standard and Conditions in the Use Chart) and a threshold of age (constructed prior to 1964—appearing in the definition of converted dwellings elsewhere in the Bylaw) that must be met before an outbuilding can be converted to a residence. But the existing language creates some confusions which Article 14 addresses:

- **Minimum Size - Footprint** is a measure of exterior size, and includes porches, covered steps at entrances, and other exterior features which do not provide or represent living space. Article 14 changes the measure of size from footprint to total habitable (interior) space, and correspondingly reduces the minimum square footage from 500 to 350. This not only reflects the difference between measuring the exterior and livable interior of a building, it ensures that the minimum square footage provided is greater than that required in the state building and health codes. Lastly, it responds to and allows for a growing trend toward the construction of smaller, more environmentally responsible dwelling units.
- **Thresholds of Age & Size** – The existing language makes no connection between the minimum size requirement and the age requirement, which appear in different sections of the Bylaw. So there is no way to know when the outbuilding must have achieved the minimum size requirement in order to be eligible for conversion. Must the building have been the minimum size from the beginning (since before 1964)? Could it have been added onto later and still meet the requirement? Could a very small structure be made big enough to meet the threshold size during the conversion itself? Article 14 clears up this confusion by requiring that an applicant seeking to convert an existing outbuilding must be able to demonstrate that it can meet the (new) minimum size requirement at the time of application.

Allowing Conversion of Non-Conforming Residences in Centers – New single family homes and new duplexes are not permitted in mixed use town and village center districts, because they are not a sufficiently intensive and efficient use of the available land. But there are existing

legal non-conforming single family residences in some centers which could be made into more intensive residential uses through conversion. Article 14 would allow a non-conforming single family dwelling in these districts to be converted into a two family converted dwelling, even though a new duplex would not be permitted in the same zoning district.

Public Hearings

The Planning Board held a public hearing on Article 14 on October 3. After extensive public comment, and further discussion and revision, the Planning Board voted 9-0 to recommend that Town Meeting adopt Article 14.