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Article 18. Replacement of Previously Existing Structures or Structures Containing Dwelling Units (Petition - Maurianne Adams et al)

To see if the Town will vote to amend the zoning bylaw by adding the following section:

Section 3.14 Replacement of Previously Existing Structures or Structures Containing Dwelling Units

Notwithstanding any other article or section of this bylaw, no permit shall be granted to reconstruct, rebuild or replace on any lot in any zoning district a structure containing residential units or a non-residential structure which has been demolished, or destroyed other than by an Act of God, with more residential units than previously legally existed on that lot or consisting of more residential square footage than previously existed on that lot.

Recommendation

The Planning Board voted unanimously, 9-0, to recommend that Town Meeting defeat Article 18, which adds a new section under Section 3.1, Restricted Uses—All Districts, and would have the unintended effect of freezing most residential development and mixed use development everywhere in Amherst.

Background

Article 18 is a petition article submitted by citizens concerned with preventing the demolition of older structures (houses and outbuildings) in residential neighborhoods and their replacement with new buildings containing more residential units than previously existed. It was in large part written a response to the proposed demolition of an older barn on Lincoln Avenue, for the purpose of clearing land on a new lot where additional residential units could then be built.

In crafting Article 18, the petitioners have indicated that they were seeking a way to prevent such demolitions and new residential construction in the future.

Unfortunately, the language and potential impacts of this amendment were not reviewed with the Planning Board or staff prior to its submission. As a result, Article 18 is dominated by unintended consequences.

Among the characteristics of Article 18 are the following:

- Article 18 would apply everywhere in Amherst. It is not restricted to any specific zoning district(s).
- Article 18 prohibits any increase in dwelling units beyond those that currently lawfully exist on all properties in all zoning districts in Amherst following any intentional demolition. Almost all renovations, redevelopment, and infill development involve partial or complete demolition.
- Article 18 does not exempt circumstances where no dwelling units exist on-site to begin with, but where any “non-residential structure . . . has been demolished.” Going from no dwelling units to a few dwelling units is “more residential units than previously existed on that lot,” so building additional new residential units on any property where a structure had been demolished would be prohibited.
- Article 18 does not acknowledge or address mandatory emergency demolitions resulting from unsafe conditions. Neither does it establish a time frame for when a structure “has been demolished.” If there was a record indicating that an old shed or garage had been demolished 20 years ago on a currently vacant lot, it’s not clear whether any new building could occur on that lot.
- The amendment offers an exemption for demolitions and removals resulting from acts of God, but it’s not clear if that means that in such cases the number of dwelling units could increase, or not.
- Article 18 would effectively prohibit new development of mixed buildings in Amherst’s centers if existing residential or non-residential buildings were to be partially or completely demolished and the intent was to create more dwelling units on-site than

had previously existed. Since almost all mixed use development is intended to increase the number of residential units on a property, all such development would be prohibited under Article 18.

Public Hearings

The Planning Board held a public hearing on Article 18 on Wednesday, October 17.

The petitioners indicated that their intentions had shifted to finding a way to stop demolitions and new residential construction until the study required for establishing a local historic district could be completed for specific residential neighborhoods. They were interested in working with the Planning Board and staff to see if there were amendments to the petition language within its original scope which might get closer to that more focused purpose.

After further discussion, the Planning Board voted unanimously, 9-0, to recommend that Town Meeting defeat Article 18 if proposed in its original language. The Board left open the possibility of reviewing any proposed changes for further recommendation.