



PLANNING BOARD

Report to Town Meeting

**Article 18. Zoning – Mixed-Use Buildings
(Planning Board)**

To see if the Town will amend Section 3.325 of the Zoning Bylaw by deleting the ~~lined out~~ language and add the language in ***bold italics***, including the following new first paragraph under Standards and Conditions, as follows:

3.325 ~~Mixed-use B building containing dwelling units in combination with stores or other permitted business or commercial uses~~

Standards & Conditions

A mixed-use building shall be a building containing one or more dwelling units as principal residential uses in combination with retail stores or other permitted business, institutional, government, public service, consumer service, office or similar principal use(s) and lawful accessory use(s).

[Other existing language is included in the warrant for context only; no other amendments are proposed.]

Recommendation

The Planning Board voted unanimously, 9-0, to recommend that Town Meeting adopt Article 18 as proposed.

Background

Article 18 amends the title of the mixed-use building use category and provides a more complete and accurate definition of the use category. It makes no other change to the regulations governing mixed-use buildings, and does not increase the number of uses possible in such a building.

The last highlighted phrase of the current title “Building containing dwelling units in combination

with stores or **other permitted business or commercial uses**” has been interpreted broadly by past Building Commissioners and by current Building Commissioner/Zoning Enforcement Officer Rob Morra to include and permit any non-residential use customarily found in a mixed-use building, including but not limited to uses in the categories of non-profit service, institutional, government, public service, consumer service, and so forth.

However, the current language “other permitted business or commercial uses,” could be misunderstood to exclude the non-business uses that already exist and are allowed. Because of this lack of clarity, Mr. Morra requested that the Planning Board pursue this amendment and bring it to Town Meeting, to help ensure that future confusions are avoided.

The Proposed Changes - The proposed amendment would change the title to simply read "Mixed-use building." That is the phrase most commonly used to describe this use category.

Article 18 would then add an initial sentence at the beginning of the Standards and Conditions for the mixed-use building use category which would more completely and accurately define the range of uses which currently and logically occur together in mixed-use buildings in Amherst’s downtown and village centers. The titles of the uses in the proposed amendment—business, institutional, government, public service, consumer service, etc.—are taken from the summary titles of use categories in the Use Chart of the Zoning Bylaw. Again, all of the uses under these categories currently exist or would be permitted in mixed-use buildings in Amherst, and are regulated under this use category as uses which can occur together in a mixed-use building. Article 18 would simply confirm that.

Article 18 would also change the threshold number of dwelling units in a mixed-use building from two or more (“dwelling units”) in the current language to “one or more dwelling units,” allowing for the possibility of smaller mixed-use buildings and live/work situations with only one dwelling unit, where a business proprietor might live in the same building as their business.

Article 18 would also acknowledge that mixed-use buildings, like all other land uses, might involve other lawful accessory uses such as on-site structures (outdoor dining pavilions, outbuildings, etc.).

Public Hearing

The Planning Board held a public hearing for Article 18 on August 21. The Zoning Subcommittee gave its report, including its unanimous recommendation that the Planning Board recommend the article to Town Meeting. Public comment was taken.

A North Amherst resident recommended that the amendment be revised to restrict the number of dwelling units possible in a mixed-use building in the COM District in North Amherst, reverting to the threshold of 6 dwelling units that the 2013 Annual Town Meeting had increased on June 3. She said the amendment as proposed would lead to a proliferation of 3 story mixed-use buildings in the area. There needed to be a way to protect neighborhoods from the kind of development represented

by the approved Trolley Barn project on Cows Road.

The Chair said that as a North Amherst resident familiar with the impacts of living near intensive uses, he understood the concerns. He had lived next to Matuszko Trucking and several “party” rental houses for years. He said that the mixed-use buildings possible under both the current and revised language were what the village center needed. Such development was preferable to vacant lots and ancient strip malls.

Other Board members noted said that the petition was an attempt to re-legislate an issue which had been settled by the 2013 Annual Town Meeting in June. It went in exactly the opposite direction from what the Planning Board had been working on for years and it would undo what Town Meeting had just adopted.

It was pointed out that there was still time to develop and submit a citizen petition article which proposed the changes requested (see petition Article 19).

After the closing of the hearing and further discussion, the Planning Board voted unanimously, 9-0, to recommend that Town Meeting adopt Article 18 as proposed.