



PLANNING BOARD

Report to Town Meeting

**Article 16. Zoning – Permit Granting Bodies & Signs
(Planning Board)**

To see if the Town will amend Section 7.9 and Article 8 by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

~ SEE WARRANT LANGUAGE ~

Recommendation

The Planning Board voted 5-0 (4 members absent) to recommend that Town Meeting adopt Article 16.

Background

Article 16 continues the long-standing practice of pursuing zoning amendments that address outdated or unclear sections of the Zoning Bylaw. Specifically, these amendments seek to: 1) clarify which permit granting body issues permits in different situations, and 2) allow modifications by the same permit granting body which issues the permit for the principal use. Article 16 also addresses how a permit granting body would modify or waive the requirements for signs. There is currently no clearly stated authority to make such modifications in the Bylaw.

In some cases, the problem being addressed is current Zoning Bylaw language that is archaic or vestigial, or that does not use either of the exact terms established in the Bylaw for the boards who issue zoning (land use) permits—Permit Granting Board (Planning Board) and Special Permit Granting Authority (Zoning Board of Appeals or Planning Board, depending on the circumstances). Sometimes the older board title used is partial or too general.

In other cases, the current zoning language includes vestigial regulations that allow situations where one board issues the main permit for the principal use (restaurant, office building, residential use, etc.) but a different board issues any Special Permit for modification of that proposed use. This creates confusion, extra cost and permitting process, and generates potential problems for the boards, the applicant, and the staff who must administer the Zoning Bylaw.

The Planning Board and Town Meeting have for decades been amending the Zoning Bylaw to require that the same board which issues a permit for a principal use—and so is most familiar with that use— is the board that is authorized to modify specific requirements for the use, or in some cases, to issue any Special Permits required for such modifications. Having one board review and issue both permits prevents situations where two different boards might disagree with one another regarding a use or its modification, with the result that the applicant could get caught in the middle, unable to proceed.

Article 16 amends two sections of the Zoning Bylaw and adds a new section.

Section 7.90, Parking Waivers

The first section amended is Section 7.90, an existing section governing the modification or waiver of parking requirements. The proposed amendments would allow the permit granting body responsible for issuing a permit for the principal use to consider and grant any waiver or modification of the parking requirements for that use. These amendments do not expand or otherwise change the ability to modify or waive parking requirements—they simply clarify which permit granting body will take that action in different circumstances.

Section 8.41, Directional or Identification Signs

The second section amended under Article 16 is Section 8.41, a section which governs the installation of directional signs (signs that provide directions to or within a site or use), and identification signs (signs that identify a site or use for those arriving). The language of the section is very general and vague, and it includes no definitions of the two types of signs in the Zoning Bylaw (just general zoning practice). The only permitting body cited is the Zoning Board of Appeals. It is possible that this section was developed in response to the expansion of the University of Massachusetts and the establishment of Hampshire College, to accommodate off-site signs providing directions to the institutions or signs announcing arrival and identifying the destination.

In terms of actual practice, both directional and identification signs can occur within a site (a shopping center, for instance) or in an off-site or remote location. These signs can serve uses whose permits might be issued by either the Planning Board or the Zoning Board of Appeals. For a single site, there is always a requirement for submission of an overall sign plan for the review and approval of the board that grants the permit for the use. Having a second board be responsible for reviewing and approving specific kinds of signs within that sign plan for a use or property makes no sense, and it confuses the jurisdiction over the signs for any given use.

Accordingly, Article 16 adds language that ensure that whichever board is issuing the permit for the principal use on a property also issue any extra permit needed for any off-site directional or identification signs associated with that same use. This avoids having two boards trying to issue permits for directional and identification signs on the same property, and possibly disagreeing on design or location.

Article 16 continues to require ZBA Special Permits for private signs (public sector signs and billboards are regulated under a different section of the Zoning Bylaw) that serve a geographic destination (“← East Village”) and are remote from the destination they are serving.

Modifying Sign Requirements - Because of its broad and vague language, Section 8.41 has been used for years by the Zoning Board of Appeals (ZBA) and a series of Amherst’s Building Commissioners as the section under which the ZBA could modify dimensional requirements for signs—allowing a sign to be larger than the normal sign dimensions specify, for instance.

At the request of the Zoning Board of Appeals, to more clearly accommodate and authorize modifications, Article 16 includes a new Section 8.5 under which the permit granting body responsible for issuing a permit for the use for which signs are being created would be granted the ability to modify or waive the sign requirements for “compelling reasons of public convenience, public safety, aesthetics, or site design.”

This parallels the amendment to Section 7.90, allowing the permit granting body responsible for issuing the permit for the use (Site Plan Review approval or Special Permit) the ability to modify or waive the parking requirements for that use in question. In both cases, there would be no “extra” permit needed from another board.

Public Hearing

The Planning Board held a public hearing on August 21 on an earlier version of Article 16 that did not contain part C. and voted 8-1 to recommend its adoption by Town Meeting. Subsequently, Planning Board representatives met with the Zoning Board of Appeals (ZBA) on September 12 to discuss the provisions of Article 16 and other amendments. The ZBA requested the inclusion of a sign modification provision, which the Planning Board's Zoning Subcommittee agreed would be useful. A public hearing was held on October 16 to review the revised article.

At the October 16 public hearing, the Planning Board heard a report from the Zoning Subcommittee and reviewed the proposed new sign modification provision. The Zoning Subcommittee recommended that the Board support the revised article.

There was no public comment during the public hearings on either August 21 or October 16.

After further discussion, the Planning Board voted 5-0 (4 members absent) to recommend that Town Meeting adopt Article 16.