



PLANNING BOARD

Report to Town Meeting

**Article 27. Zoning – Accessory Home Business Uses
(Planning Board)**

To see if the Town will amend Article 5, Accessory Uses, and Article 12, Definitions, as follows:

~ SEE WARRANT ~

Recommendation

The Planning Board voted 7-0-0, with 2 members absent, to recommend that Town Meeting adopt Article 27.

Background

Article 27 is an amendment initiated and requested by the Building Commissioner, and developed by Conservation and Development staff. It is an attempt to better organize the way in which Amherst regulates accessory home business uses—businesses operated by a resident from their home.

Currently, the Zoning Bylaw has only two categories for accessory home businesses: 1) Home Offices or Studio, which is allowed by right so long as the use abides by the basic rules established in the Bylaw, and 2) Home Occupation, which requires a Special Permit. These categories were organized on the basis of the intensity of the uses. An office or studio was assumed to be a quiet use with low visitation and few impacts. A home occupation was assumed to be more like a trade, involving the use and storage of equipment (sometimes power equipment) and materials, and vehicles associated with the business use.

The nature of home business uses has evolved significantly in the past few decades. Many home businesses involve people other than the resident homeowner coming to the property, as well as longer hours of operation, business vehicles, traffic from customers/students/clients or delivery vehicles, storage of equipment and materials, and other impacts. New categories of home businesses have developed that are not well covered by the current regulations, and some businesses are operating in Amherst without permits (not knowing they needed them).

Currently, any accessory home business which does not fit within the two existing categories must by default be assumed to be a Home Occupation. That requires the Zoning Board of Appeals to spend a lot of time reviewing Special Permits for minor accessory business uses. The resulting permit conditions are frequently the same from permit to permit. This is not a good use of the ZBA's time, which should be spent reviewing more intensive and impactful principal uses that involve more pressing issues for the community.

What Article 27 Would Do

Article 27 proposes to replace the existing home business sections with new categories, adding provisions for new previously-unrecognized uses, creating new regulations for vehicles associated with home business uses, and adding needed new definitions.

New Categories

In place of the two current categories of accessory home businesses (office or studio, and home occupation) Article 27 proposes four new categories, in ascending order of intensity:

Home Business - The lowest intensity use would be called Home Business, and would cover uses which occur entirely within the home and involve little business vehicle traffic. Numerous kinds of artists, craftspeople, desk-top publishers and similar trades or digital home businesses fit into this category. A Home Business would be allowed by right in any zoning district subject to specific limitations on the number of people involved (no more than two non-residents), visual impact, traffic, and similar measures of impact under an administrative permit issued by the Building Commissioner.

Customary Home Office or Occupation – This category covers professional home offices and occupations—lawyers, accountants, teachers/instructors, etc.—where visitation by clients is often expected. These uses would require a Special Permit (Zoning Board of Appeals) unless it could be demonstrated that a specific use complies with both the general standards in the Zoning Bylaw and several specific criteria which demonstrate that the impacts of the use are low and equivalent to those of a Home Business. In those cases, the Building Commissioner would be authorized to certify when a Special Permit was unnecessary, and could grant an administrative permit for the use.

Small and Large Home Based Contractors – These two sub-categories of home business use are distinguished by:

Where They Occur - Small Home Based Contractors are allowed in any residential district; Large Home Based Contractors are permitted only in the R-N, R-O and R-LD Districts.

The Number of Business-Related Vehicles - Small Home Based Contractors are allowed a maximum of two vehicles (no Construction Vehicles); Large Home Based Contractors a maximum of four vehicles (two of which could be Construction Vehicles).

Permit Required - A Small Home Based Contractor business use that can demonstrate that it does not constitute a Large Home Based Contractor use could be allowed under an administrative permit issued by the Building Commissioner. A Large Home Based Contractor business use would require a Special Permit (Zoning Board of Appeals).

Other criteria for differentiating between small and large home based contractors include how much of a given property is involved in the business use, levels of traffic generated, how storage is proposed to be handled, and similar criteria measuring impacts.

Home Business Use Regulations & Waiver Provision

General regulations would be added to govern the operation of all accessory home business uses, along with regulations specific to each category of home business use. A waiver or modification provision would be added to allow the Building Commissioner or Zoning Board of Appeals to modify the regulations to fit unforeseen circumstances.

Vehicles Associated with Accessory Uses

Article 27 would also add amendments to specifically govern the garaging and parking of vehicles associated with a home business use in residential districts, or associated with an accessory business use in a business district. These would include regulations governing Construction Vehicles. Any increase in their number would require a Special Permit. No operation or idling of business-related vehicles would be permitted between the hours of 10 p.m. and 7 a.m. in residential districts, or between 11 p.m. and 6 a.m. in business districts, except in emergencies or as part of seasonal snow plowing.

Definitions

Article 27 would add currently missing definitions for “accessory use or building”, “construction vehicle”, and “principal use.”

Public Hearing

The Planning Board held a public hearing on Article 27 on March 5 and March 19. The Building Commissioner presented the article, and the Zoning Subcommittee presented its recommendation.

During the public hearing, citizens expressed hope that the amendment would help deal with idling trucks associated with home businesses, and asked that the regulations encourage home businesses that fit into neighborhoods well and did not cause disruption.

After further discussion, the Planning Board voted unanimously (7-0-0), with members absent, to recommend that Town Meeting adopt Article 27.