

# Article 24 – 2014 Annual Town Meeting and June 2, 2014 Special Town Meeting

**Previous Opinion from Town Counsel Regarding Inclusion for a Mixed-Use Building  
(Boltwood Place) in the B-G District**

**From:** Joel Bard [mailto:[JBard@k-plaw.com](mailto:JBard@k-plaw.com)]  
**Sent:** Thursday, July 16, 2009 7:11 PM  
**To:** Tucker, Jonathan  
**Cc:** Shaffer, Larry  
**Subject:** RE: Bylaw interpretation

Hi Jonathan

The language of section 15.10 is subject to interpretation. The project you describe fits the language in that it requires a special permit and it will add new dwelling units, but my initial reading of it is the same as yours; namely, that the section seems to be intended to apply to residential projects which require a special permit for the project itself, rather than a situation in which an ancillary SP is needed for building coverage (or parking, or whatever).

When language in a bylaw or regulation is subject to several interpretations, courts will generally defer to the reasonable interpretation of that language by the administrative official or body charged with interpreting the bylaw or regulation. In my opinion, your interpretation is reasonable. Your email reflects your awareness that it will be important to apply the bylaw consistently, so while you will not be bound forever to this interpretation, it is useful to be thinking in terms of living with this reading of the bylaw for various future projects.

Joel

Joel B. Bard, Esq.  
Kopelman and Paige, P.C.  
101 Arch Street  
Boston, MA 02110  
(617) 556-0007  
[jbard@k-plaw.com](mailto:jbard@k-plaw.com)

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*Thanks to the above two-person e-mail dialogue, provided by the Planning Department as a handout at the Wednesday, May 7, 2014 public hearing on a proposed substitute for Article 24, Archipeligo's Boltwood Place (12 units/built), Olympia Place (75 units/permitted) and Kendrick Place (36 units/permitted) projects were completely exempted from the Amherst Zoning Bylaw's Article 15 affordable housing requirements. A June 2 special town meeting petitioned zoning article would eliminate this loophole.*

*Vincent O'Connor, Precinct #1*