



**PLANNING BOARD**

**Report to Town Meeting**

**Article 34. Zoning – Amend Official Zoning Map (Petition)**

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To see if the Town will vote to amend the official Zoning Map by changing RO (Outlying Residential) to R-LD (Low Density Residential) in all areas of Town neither served by public water nor sewer.

~ SEE WARRANT ~

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Recommendation

The Planning Board voted 6-0 with 3 members absent to recommend that Town Meeting refer the article to the Planning Board for further study; if the referral fails, the Planning Board recommends that Town Meeting not adopt the article.

Background and Purpose

The language and scope of the proposed petition article are too broad as the article is currently written. Town Planning Department received advice from the Town Attorney that the article as submitted would need a list of parcels being impacted or at least a date associated with the lack of connection to Town water and sewer service. The petitioner is planning to make a motion on the article on the town floor at Town Meeting based on input they received after several meetings with the Zoning Subcommittee and Town Planning Department.

The revised proposal would be limited to parcels higher in elevation than the town's water tower, which the petitioner determined is at a 425' elevation height, and the area impacted is around 150 parcels in the northeast area of Amherst. The R-O parcels meeting the revised criteria would then follow the R-LD dimensional regulations rather than be rezoned to R-LD.

The Planning Board has been told that the motion that the petitioner plans to make is as follows:

“I move to amend Article 6, Dimensional Regulations, of the Zoning Bylaw, for properties in the R-O (Outlying Residence) zoning district that are above 425 feet in elevation above mean sea level (NAVD88) and are not connected to town sewer and water, that these properties shall comply with the dimensional requirements of the R-LD (Residential Low Density) zoning district.”

However, even with these additional revisions, there remain several broad and unintentional consequences. A change of this scale would ordinarily require intense planning studies and a thorough understanding of the potential impacts, both positive and negative, at various scales of study.

Although this study has not occurred, there are several immediately apparent negative impacts.

- 1) The creation of numerous non-conforming lots will most likely occur which could prevent property owners from making changes to their buildings on the newly non-conforming lots.
- 2) The downzoning could reduce the ~~useability~~usability of numerous parcels which would negatively impact both individual property owners as well as the Town of Amherst.
- 3) It is unusual to base zoning on subsurface infrastructure, like natural gas, wells and septic systems, where typically the Board of Health and Town Engineer provide protections for well and septic issues. In addition the Subdivision Rules and Regulations provide that subdivisions cannot be approved with both septic systems and wells on the same property without a waiver from the Planning Board.

The petition article has been proposed as a way to preserve the rural landscape character of the North East area of Amherst as well as reduce the impact on the town's water and sewer system through decreasing development in that area where there is currently no service connection. The petitioner's goals of land preservation may be thwarted by the encouragement of property owners who are negatively impacted rushing to submit preliminary subdivision plans to freeze the zoning for eight years in order to retain their property values if downzoning were to occur.

While preservation of Amherst's unique rural landscape is indeed one of the key priorities of the Master Plan, it did not seem like the current development trend that was already occurring in the area is very threatening or out of character. In addition, there is already relatively dense housing along Leverett Road, High Point Drive, Juniper Lane and Overlook Drive.

The petitioner's other concerns about reducing impact on town water and sewer through discouraging development of areas outside of town water and sewer service will not be alleviated because existing subdivision regulations already prevent new subdivisions from having both a well and a septic system on the same parcel without receiving a waiver from the Planning Board.

### Mechanics

If the Petitioner's motion were to pass either in its revised form or in its original form, this is a comparison of how the dimensional regulations would change for parcels not connected to town sewer or water:

Table 3 – Dimensional Regulations Comparison for R-O to R-LD

#### R-O

Minimum Lot Area: 30,000 sq ft  
Minimum Lot Frontage: 150 ft  
Min. Front / Side+Rear Setbacks: 25/25 ft  
Maximum Building Coverage: 15%  
Maximum Lot Coverage: 25%  
Cluster Minimum Lot Area: 15,000 sq ft

#### R-LD

Minimum Lot Area: 80,000 sq ft  
Minimum Lot Frontage: 200 ft  
Min. Front / Side+Rear Setbacks: 30/20ft  
Maximum Building Coverage: 10%  
Maximum Lot Coverage: 15%  
Cluster Minimum Lot Area: 25,000 sq ft

Note that since flag lots require twice the normal lot area in the zoning district, flag lots in the R-O zoning district would require 60,000 square feet (2 x 30,000) and 160,000 in the R-LD zoning district (2 x 80,000).

### Process

The Zoning Subcommittee reviewed the petition article several times as submitted and could not make any recommendations without a finalized version of the article. The Zoning Subcommittee was presented with the Petitioner's proposed motion language on April 11. A Planning Board public hearing on this article was held on April 11, 2018.

The following issues were addressed by the petitioner at the public hearing:

- Concern about septic systems failing in the northeast part of Amherst;
- Desire to delay the expense of installing a new sewer line to the northeast part of Amherst;
- Desire to have zoning in this part of town be responsive to and reflective of the goals of the Master Plan;
- Desire to protect the character and view-scape of the area;
- Support of at least 22 people who signed the petition, many or all of whom are property owners in the northeast part of Amherst.

The following comments and concerns were offered by the Board members and by two members of the public (through oral or written testimony):

- The article is extremely broad and has not been fully vetted with the public, with landowners who will be affected by the proposed change or with the Planning Board;
- The Planning Board is aware that planning and development in this part of town needs to be studied and decisions need to be made about protection of scenic view and the character of the landscape;
- Issues about septic systems and wells are normally dealt with by the Board of Health and the Town Engineer, and do not ordinarily influence decisions about zoning;
- The proposal, in its original and in its revised form, would make many parcels of land non-conforming, causing property owners to be required to seek Special Permits from the ZBA in order to make changes to their homes;
- Large property owners may react to this proposal by submitting Preliminary Subdivision Plans and eventually Definitive Subdivision Plans to freeze the zoning on their properties for 8 years, possibly leading to premature development of the area;
- Property owners who will be affected by this change have not been properly informed of the proposed change;
- Requiring that properties be 80,000 square feet in size (approximately 2 acres) in order to be developed for single family homes amounts to sprawl;
- There is a lack of a clear relationship between large lot zoning and the requirements of septic systems and wells;
- Not all uses in R-LD require septic systems or wells. There are rapidly advancing technologies for harvesting drinking water, and for managing gray water and black water.
- There was some recognition of the petitioners' concerns but a belief that the current proposal is not the proper way to address the concerns.

After lengthy discussion, the Planning Board voted 6-0 with 3 members absent to recommend that Town Meeting refer the article to the Planning Board for further study; if the referral fails the Planning Board recommends that Town Meeting not adopt the article.