



Planning Department

**TOWN OF ACTON**  
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September 21, 2017

**Notice of Public Hearing on Proposed Zoning Changes**

For publication as a LEGAL NOTICE on *September 28, 2017* and *October 5, 2017*:

Acton Planning Board Public Hearing to be held on 10/17/17 at 7:30 PM in Town Hall, Francis Faulkner Room (204) to discuss the following proposed zoning bylaw & map changes: (1) amendment concerning building additions on nonconforming residential lots; (2) housekeeping amendment for Shopping Center Parking; (3) rezoning 210 Arlington Street from the Residence 2 to the Village Residential district; (4) rezoning 145 Great Road (Brookside Shops) from the Residence 8 to the Limited Business district; (5) allow Parking Facility as a principal use as of right in the South Acton Village district. Agricultural operations will not be impacted. Proposals are available at the Planning Dept. and Town Clerk.

**ARTICLE #**  
(Two-thirds vote)

**AMEND ZONING BYLAW – ADDITIONS AND REPLACEMENTS  
ON NON CONFORMING LOTS**

To see if the Town will vote to amend Section 8.1 (Nonconforming Lots) of the Zoning Bylaw by deleting subsection 8.1.4 in its entirety and replacing it with a new subsection 8.1.4 as follows:

8.1.4 Extensions, alterations or changes of Single- and Two-Family Dwellings on Nonconforming Lots – One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of all STRUCTURES on the LOT to more than 3,500 square feet of the total floor area including but not limited to garages, barns, sheds, gazebos, decks and porches.

*[Note Section 8.1.4 currently reads:*

*Extensions, alterations or changes of Single- and Two-Family Dwellings on Nonconforming Lots – One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15 percent of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that LOT became nonconforming, whichever is later.]*

, or take any other action relative thereto.

**SUMMARY**

Currently, the Zoning Bylaw provides that a by-right extension, alteration or change to a single or two-family dwelling on a non-conforming lot is limited to a 15% increase in the size of the existing structure. Any increase above 15% requires a special permit from the Board of Appeals. In 2016, a zoning bylaw amendment was brought to the Special Fall Town meeting proposing to increase the 15% threshold to 50%. Town Meeting rejected that proposal.

Data compiled since 2012 on special permits issued for extensions, alterations or changes to single or two-family dwellings on non-conforming lots show that all 25 applications have been granted a special permit regardless of size increase, which ranged from 17% to 205%. Only a few special permit decisions required minor plan alterations.

This article proposes a different approach to setting the threshold for by-right v. special permit extensions that is independent from the pre-existing size of the building. If adopted it would allow single or two-family dwellings on non-conforming lots to be increased in size up to 3,500 square feet by-right. This total area includes all structures on the lot. It was estimated from the Assessor's data that the square footage of the average house in Acton together with garages, porches, decks etc. is approximately 3,500 square feet. Any increase of square feet over 3,500 square feet would require a special permit.

Had this change be in place during the last 5 years, nearly half of the home expansions on non-conforming lots that required a special permit would have been allowed by right.

Direct inquiries to: Roland Bartl, Planning Director: [planning@acton-ma.gov](mailto:planning@acton-ma.gov) / (978) 929-6631  
Selectman assigned:

**Recommendations:**      **Board of Selectmen**      **Finance Committee**      **Planning Board**

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**ARTICLE #**  
(Two-thirds vote)

**AMEND ZONING BYLAW – Housekeeping, Shopping Plaza Parking**

To see if the Town will vote to amend Section 6.3 (Minimum Parking Space Requirements by Use), of the Zoning Bylaw by deleting subsection 6.3.1.7 and replacing it with a new subsection 6.3.1.7 as follows:

6.3.1.7	Bank; Credit Union; Convenience Store; Shopping Center with at least two of the following uses: Restaurant, Retail Store, Services	Three spaces per 1,000 s.f. of NET FLOOR AREA.
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*[Subsection 6.3.1.1 currently reads:*

6.3.1.7	<i>Bank; Credit Union; Convenience Store; Shopping Center with two or more Retail Stores</i>	<i>Three spaces per 1000 s.f. of NET FLOOR AREA.</i>
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, or take any other action relative thereto.

**SUMMARY**

Section 6.3.1.7 currently describes the minimum parking space requirements for, among other uses, Shopping Center with two or more Retail Stores. This article is simply a housekeeping measure to include shopping centers that have less than two retail stores. The mix of uses in shopping centers is changing due to changes in market conditions. Although retail stores are still located in shopping centers, Services and Restaurants are becoming more prevalent. This proposed zoning change reflects market trends by including “Restaurants” and “Services” in the Shopping Center parking description.

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Selectman assigned:

**Recommendations:**     **Board of Selectmen**     **Finance Committee**     **Planning Board**

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**ARTICLE #**  
(Two-thirds vote)

**AMEND ZONING MAP – 210 Arlington Street**

To see if the Town will vote to amend the Zoning Bylaw, Map Number 1, by changing the zoning district designation for Town Atlas parcel F2A-29-1 (210 Arlington Street) from Residence 2 (R-2) to Village Residential (VR), or take any other action relative thereto.

**SUMMARY**

210 Arlington Street is zoned Residence 2 (R-2) and is currently used as a single family residence. It abuts the Village Residential (VR) zoning district to the southwest. This article proposes to rezone 210 Arlington Street to VR. The owners of 210 Arlington Street had approached the Planning Board in June of this year with the request for the zoning change.

If the property is rezoned to VR, the owners would have different options for use and development on the lot. Aside from some passive, governmental and institutional uses, a religious use or a child care facility, a single-family dwelling is the only principal use that is allowed by right in R-2. The single family residence may have an accessory apartment, and the residents in the home may conduct a home occupation. A few additional uses may be allowed by special permit such as a bed & breakfast. In VR, the lot can also be used by right for a very small retail store, office or service shop, and by special permit the single-family residence could be converted to or replaced by a 4-family dwelling. In both districts the lot meets the minimum dimensional requirements but it cannot be further subdivided.

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**ARTICLE #**  
(Two-thirds vote)

**AMEND ZONING BYLAW – Brookside Shops (145 Great Road)**

To see if the Town will vote to amend the Zoning Bylaw, Map Number 1, by changing the zoning district designation for Town Atlas parcel F4-37 (145 to 149 Great Road) from Residence 8 (R-8) to Limited Business (LB), or take any other action relative thereto.

**SUMMARY**

145-149 Great Road is the site of Brookside Shops, the location of Staples, Trader Joe's, Talbots, among others. Originally zoned for General Business, the site was rezoned to single-family residential (R-8) in 1990 as part of a comprehensive zoning plan for Great Road. At that time the site was an active farm with a farmstead on it. The then-owners of the subject site objected to the rezoning of their property and availed themselves of statutory grandfathering protection devices to preserve the pre-1990 General Business zoning for their property. Brookside Shops was built about thirteen years ago under these grandfathering protections in conformance with pre-1990 General Business District zoning requirements.

Today, these grandfathering protections have expired, and the site is subject to R-8 zoning regulations. Severe non-conformity restrictions result from the mismatch between the established commercial use and the residential zoning regulations. This makes it often impossible for the existing businesses to implement changes to their establishments, or to change business establishments within the plaza, without involvement by the Board of Appeals for special permits or variances. For instance, under the current residential zoning a restaurant or coffee shop could not be located at Brookside Shops, and there is no relief through variance, special permit or otherwise to allow them. The property presently has two vacant stores and the owner is aware of possible additional closures in the coming months. On-line retailers exert ever growing pressures on brick and mortar stores. In a highly competitive regional retail market, Acton is disadvantaged relative to communities along the I-495 belt. Retail properties that cannot be nimble and flexible to ensure high occupancy rates with a diversity of quality tenants and uses can unexpectedly experience high vacancy rates, resulting in a potential for blight. This article intends to acknowledge the commercial nature of the property that now exists and to ensure its long-term health and viability as a significant contributor to Acton's commercial tax base.

The General Business District no longer exists in Acton. The proposed LB zoning is consistent with other business properties along Great Road. Since this article was last considered by Town Meeting, all outstanding permit matters have been brought into compliance, efforts otherwise have been made to address neighbor concerns and new ownership of the property make this matter ripe for reconsideration.

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**Recommendations:**      Board of Selectmen      Finance Committee      Planning Board

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**ARTICLE #**  
(Two-thirds vote)

**AMEND ZONING BYLAW – PARKING FACILITY IN THE  
SOUTH ACTON VILLAGE (SAV) DISTRICT**

To see if the Town will vote to amend the Zoning Bylaw Section 3 – Table of Principal Uses by changing from “N” to “Y” the field in column SAV, line 3.5.23 (Parking Facility), or take any other action relative thereto.

**SUMMARY**

One of the property owners in the South Acton Village Zoning district has requested that the principal use of Parking Facility be allowed as of right. The property owner would like to utilize his property for private parking to assist for commuters to Boston. Parking facility is defined in the Zoning Bylaw as “commercial parking open to the public for automobiles and similar light motor vehicles.” If adopted, this zoning change would be in effect for all properties in the South Acton Village zoning district. Municipally owned or operated parking facilities would not be affected by a vote on this article. They are separately classified under zoning in the same way as fire stations, police stations, libraries, or Town Hall as a municipal use that is allowed in every zoning district.

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