

# Draft Zoning Bylaw Public Comments and Responses

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**ON JANUARY 28, 2020 THE ZONING BYLAW COMMITTEE REMOVED THE R10 AND R20 DESIGNATIONS FROM THE DRAFT ZONING BYLAW. THERE WILL NOT BE R10 AND R20 REFERENCES IN THE ZONING BYLAW ARTICLE FOR THE MAY 2020 ANNUAL TOWN MEETING.**

**January 23rd, 2020**

## Resident's Feedback & Questions

1. Are the zoning changes with the residential lots being addressed by the Planning Board or the Zoning Committee?

*Answer: The Zoning Bylaw Committee was charged with updating the bylaw, not the change in residential lots. The Planning Board will be addressing this.*

2. Small Lot Zoning – Are we still waiting for more analysis on this?

*Answer: There are a number of methods as to how this should be analyzed. The mechanics will be worked out outside of this project.*

3. Small Lot Zoning – Does that pertain to new subdivisions, for example if a resident has 1.5 acres?

*Answer: As it is currently written, hypothetically someone with 1.5 acres in a newly created R20 district could subdivide their lot into 3.*

4. In the R40 Districts are those undeveloped lots allowed to be subdivided in the future?

*Answer: If a neighborhood was rezoned to R20 or R10 and there was unsubdivided land they could create ½ acre or ¼ acre lots. If a neighborhood remained R40, the only way that ½ acre or ¼ acre lots could be created is through an Open Space Residential Design subdivision as is currently the case under existing zoning in Tewksbury.*

**January 15<sup>th</sup>, 2020**

## Resident's Feedback & Questions

1. Can you please clarify what an overlay is?

*Answer: An overlay district in zoning can be restrictive or additive. Every parcel in Town has a certain base zoning. A restrictive overlay would allow for the base uses to exist, but may have restriction that are applied. In the Floodplain Overlay District, you can still build a home but are restricted to certain elevations. In the Groundwater Protection Overlay District, activities are restricted that could affect a drinking water supply. An additive overlay would allow for uses in addition to the existing base uses. The Medical Marijuana Overlay District allows for dispensaries only in this overlay district. The Interstate Overlay District allows for gas stations near the interstate interchanges.*

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2. Why are there so many condos & townhouses on Rt. 38?  
*Answer: There is a housing shortage in the Commonwealth. Supply is very low and land prices are high. Town Meeting voted for overlay districts in 2009 after the economy moved it a recession. The overlays served as a stimulus for growth on Rt. 38.*
3. In the new zoning can you not put a single family house on Rt. 38? *Answer: Correct.*
  - a. Can you not put one in even with a Special Permit? *Answer: Correct.*
4. Was the transitional district removed?  
*Answer: No. The Committee recognized that it was important to the neighborhood. The regulations were removed because there are general regulations that apply to all districts.*
5. Transitional District – can you have a hairdresser in use in the transitional district?  
*Answer: Yes under both the current and proposed bylaw.*
6. Can you have dual uses in the buildings – a single family and expand for a business on 1<sup>st</sup> floor?  
*Answer: Depends on the district.*

January 14<sup>th</sup>, 2020

## Resident's Feedback & Questions

1. Why was the Developmental Impact Statements removed? It seems it would answer a lot of questions in an organized way.  
*Answer: It was a section of the bylaw that allowed for the special permit granting authority to implement if they deemed necessary. It was tailored after the State's MEPA process for large scale projects. Most of the items are now addressed through the interdepartmental review process.*
2. **[Small Lot Zoning]** I didn't follow the discussion of the small lot on reducing the lot coverage to 20% to 15% [footnote c]. Is the footnote piece going to remain? See Section 5.3.2, footnote C.  
*Answer: This is currently under review.*
3. **[Open Space]** Is the open space always accessible to the public from the street?  
*Answer: There is no change in the bylaw from how the open space is currently being addressed. It is on a case by case basis. If the space is conveyed to the Town or Conservation Commission, there is a liability that the Town assumes in tree clearance*

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*and potential damage to abutting properties. The Board of Selectmen should be notified during the permitting process if this is something that the Planning Board is considering. If the open space remains in private hands, it may not have public access.*

4. **[Density]** Density for multifamily developments that exceed 7 units per acre:
- How many developments in the past have exceeded this and where are they located?

*Answer: Since 2015 3 projects have been built that exceed 7 units per acre: Balsam Place (Victor Drive), Joan's Farm (Livingston Street), 743 Main Street. 2 are currently under construction: 1455 Main Street and 725 Main Street. 4 projects are approved and are in building permit process: 960 Main Street, 1325 Main Street, 2131 Main Street, and 2230 Main Street.*

5. If the zoning is approved how will the transition go into effect? Will it be implemented the day it is approved?

*Answer: Once approved by a 2/3 vote of Town Meeting, the bylaw and map will be sent to the Attorney General's Office which has 90 days to review. During the 90 period, regulations and forms will be drafted to implement the bylaw. Once approved by the Attorney General, the bylaw becomes effective the date of Town Meeting approval.*

6. **[Potential Build Out]** Was there an assessment by the consultants on the impact of the number of houses in town [that will be able to be built] from the zoning bylaw?

*Answer: That was not part of the scope of the contract with the consultant. Their role was to update the bylaw and make sure that it was consistent both internally and externally. If the question is in regard to small lot zoning, that was not part of the consultant's scope.*

7. Can you explain more on how the committee was able to make the new zoning bylaw more "Prompt & Predictable"?

*Answer: This was accomplished by removing some overlays in the bylaw, consolidating sections and reorganizing the bylaw, and by adding criteria that the Planning Board would use to review a project.*

8. Do you think these [proposed] bylaws will be more protective of people's wants and desires?

*Answer: It is reflective of the 2003 and 2016 Master Plan.*

- Are there any significant weakness that could be looked at further?

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*Answer: There are a few different methods of addressing non-conforming lots that could be looked further. This could be accomplished through text changes in the bylaw, or redistricting areas.*

9. **[Previous Bylaw Amendments]** At what point was it needed to redo this bylaw to recodify?

*Answer: In 2016 the Master Plan update was completed which is typically the starting point for major rezoning efforts. By 2016, the current zoning bylaw had been amended 126 times. In 2016, the Board of Selectmen established the Zoning Bylaw Committee.*

**December 9<sup>th</sup>, 2019**

## Resident's Feedback & Questions

1. Feedback: Request to send out invites to all Town Boards, Commissions & Committees for January Meetings.

*Answer: Invitations will be sent out to all Town Boards, Commissions and Committees for January meetings.*

2. Question: How will the Town distinguish who gets the fee in-lieu of? Is it based on the developer in Town?

*Answer: The current Draft 9, Section 8.3.4 addresses this issue. It is not based on in-town developers, but based on type of housing. "On-site housing is required for any multifamily development or mixed use development". "For an Open Space Residential Development, the Planning Board may grant a special permit for the applicant to pay a fee in lieu of affordable units..."*

3. Question: Where will MFD still be located in Town?

*Answer: Multifamily developments will be allowed in the following districts--- Multifamily District, Village Residential District, Office Research District. (See Appendix A—Table of Uses)*

4. Question: Is the four story building [2230 Main Street, Carl Crupi] going to be affordable?

*Answer: The proposed four story building at 2230 Main Street has already been approved by the Planning Board and the State to provide 9 affordable rental units. This would qualify all 34 rental units to count towards the Town's subsidized housing inventory according to current State policy.*

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5. Question: If you do not like 1 thing in the whole [zoning bylaw] should you vote it down?  
(Referenced in question R10 & R20 Small lot zoning)

*Answer: This is an individual voter question. The draft bylaw has a significant amount of features and improvements that need to be weighed by the individual voter.*

6. Feedback: All affordable housing should be required until the 10% is met and not allow the fee in-lieu of.

*Answer: The current draft reflects the joint recommendation of the Zoning Bylaw Committee and the Planning Board. There is a legal question relative to this position that will have to be discussed with Town Counsel and the project consultants.*

7. Question: Is the R10 & R20 on the zoning map?

*Answer: The R10 and R20 districts show up in the text of the bylaw, but not on the map. The Planning Board and staff will address this issue, neighborhood by neighborhood should this bylaw be approved.*

8. Feedback: Concerned with the VFW in South Tewksbury facing a large cluster of development would be developed in the location if small lot zoning goes into place.

*Answer: The current VFW site is 1.95 acres. Under R40- that is 1 single family lot and .95 acres that would not be buildable. Under proposed R20- 3 housing lots would be permitted. Under proposed R10- 7 housing lots would be permitted. **Note: The zoning map does not include R20 or R10 for any neighborhood in Tewksbury at this time.***

9. Question: What is R40, R10, R20?

*Answer: "R" stands for a residentially zoned district and the number relates to lot size. In Tewksbury it is used to designate a single family zone. R40 is 1 acre zoning, R20 is half acre zoning and R10 is quarter acre zoning.*

10. Question: Will this zoning bylaw be voted on as 1 whole item or by sections?

*Answer: This is a legal question that will be discussed with Town Counsel and the newly elected Town Moderator.*

11. Feedback: I think I would vote No for the whole thing since it is complicated.

*Answer: As the legislative body of the Town, Town Meeting has to address complicated matters from time to time. Each member will have their own individual criteria which will serve as the guide to their vote.*

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12. Question: How will you decide for the neighborhood boundaries [for the R10/R20 zoning]?

a. Will that be determined after this Zoning Bylaw is passed?

*Answer: The boundaries for R10/R20 areas of Town will be addressed after this zoning bylaw is passed. The Planning Board and staff will discuss with each individual neighborhood, the pros and cons of changing the zoning. Only after these neighborhood dialogues occur will articles be brought to Town Meeting for a zoning map change.*

13. Question: Is there something in the [proposed zoning bylaw] about the Office/Research district allowing for Multifamily?

*Answer: Yes.*

14. Question: If a builder comes in for a permit does he have to tell the Planning Board what he is putting on the land?

*Answer: Yes from a use perspective. The zoning bylaw has generic categories of uses which dictates what is allowed and not allowed. If a use is not identified, an application will not proceed.*

15. Question: Why can't the [developer/applicant] be required to have a tenant before issuing the Special Permit?

*Answer: Zoning and special permits only govern uses. Specific tenant identification may be an exclusionary practice.*

16. Question: How many more [developments] are going to be put in with business in the front and residents in the back? (As separate buildings)

*Answer: It is an unknown at this time.*

17. If [the small lot zoning] for R10/R20 is accepted are you going back to the neighborhood?

*Answer: Yes. The commitment is that the Planning Board and staff will be going to the neighborhoods for R10/R20 discussions.*

a. How will [the small lot zoning] be voted on?

*Answer: Town Meeting vote for zoning is 2/3 majority.*

18. Question: [Small Lot Zoning] If it was allowed in neighborhoods would houses come down?

*Answer: This is yet to be determined.*

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19. Question: [To address non-conforming lots] And that is only putting on an addition, not a whole new building?

Answer: This is yet to be determined.

20. Question: Has anyone asked you if they can split their lots?

Answer: This question comes up on a regular basis.

21. Feedback/Question: People are not happy with the mixed use on Rt. 38.

a. Are the overlay's going to revert back on Rt. 38?

Answer: The overlays are being proposed as base zoning for Rt. 38 with caps on density.

22. Question: The Adult Entertainment was put in the Great Swamp to deter interest. What happens if the Great Swamp is changed to the Park District?

Answer: The Great Swamp was 1 of 4 locations in Town where an adult entertainment establishment could exist.

23. Question: Roughly what percentage of the bylaw was changed; How much was based on compliance with the State standards vs. how much was changed based on anecdotal information in Town; and were there any surprises [in going through this process]?

Answer: It is difficult to put a percentage on this. There were compliance issues, format issues, content issues and organizational issues that are addressed in the proposed bylaw.

24. Question: Will the voting be all or nothing? I would hope that residents could bring amendments to the floor during Town Meeting?

Answer: This will be a discussion at Town Meeting.

25. Feedback: The overlay districts are to uphold the design standards. I believe the Circle Health building [should have been] to the design standards; I would like to see the standards raised.

Answer: There will be more stringent standards and the ability to waive provisions of the bylaw have been tightened.

26. Feedback: I believe buildings are being built too close to the road.

Answer: Many of the lots on Rt. 38 are small and do not lend themselves to significant setbacks. This is something that can be addressed during the permitting process.