

# Planning Board Sponsored Warrant Articles for Zoning Amendment Annual Town Meeting 2024

## ZONING EXPLANATION SUMMARY GUIDE

This guide provides a summary explanation for each proposed zoning amendment recommended by the Belmont Planning Board. The guide lists the language of the proposed amendment lifted from the Section of the Bylaw where it is located and highlights proposed removed language with ~~strikeout~~ and added language with underline. **Yellow highlighting** further emphasizes the changed language.

Explanations are in the **shaded box** directly below the language that we reference and each box included a page reference number so the reader can find the language in the full text of the Section.

You will find proposed zoning amendments in three (3) specific Sections of the Zoning Bylaw, as follows:

### **Section 1. General**

Section 1.4 proposed amendments are to definitions and these include clarifying language, changes to word placement for better readability, and one new definition for a new word that has been added to the Bylaw.

Section 1.5 proposed amendments include rephrasing existing language and corrections to scrivener's errors in citations.

### **Section 4. Intensity Regulations**

Section 4.1 proposed amendment includes updating a departmental reference. Section 4.2 provides clarifications to applicable zoning districts and breaks out comma delimited lists into numbered lists. Section 4.3 provides updated language for Unenclosed Steps and Similar Projections (Sec. 4.3.3), an option for relief for corner lots for rear yard restrictions, and clarifications.

### **Section 5. General Regulations**

Section 5.1.2 Schedule of (parking) requirements addresses the parking amendment for restaurants withdrawn in fall 2023 and provides detail regarding how that parking may be credited plus relief options if it cannot be met.

# SECTION 1. GENERAL

## Subsection 1.4 Definitions and Abbreviations

**Family** - One or more persons, including domestic employees, or a group, occupying a dwelling unit and living as a single nonprofit housekeeping unit; provided that if five or more persons of the group occupying said dwelling are not kindred to each other, as defined by civil law, they shall not be deemed to constitute a family.

**This amendment adds reference to a group as part of definition of family which aligns with state law and is consistent with other provisions in the Bylaw (p. 1-5).**

**Floor Area, Gross** - The sum of the horizontal areas of the several floors of all buildings on the same lot, measured from the exterior face of exterior walls or from the center lines of walls separating two attached buildings, including basements and any interior parking and loading areas, but not including cellars, or areas having less than six seven feet floor-to-ceiling height.

**This proposed amendment provides additional clarity to the definition in the case of attached buildings. It also changes the excluded area height from 6 to 7 feet (p. 1-5).**

**Floor Area Ratio (FAR)** – The ratio of gross floor area to the lot-area of the lot. In determining gross floor area for these purposes only, any building area having floor-to-ceiling height in excess of 15 feet shall be counted twice. FAR does not apply to residential dwellings.

**This proposed amendment rewords reference to the “lot” and provides an exception for residential dwellings (p. 1-5).**

**Grade** - The average of the ground level adjoining the building at all exterior walls based upon the existing contour lines. Contour lines shall be illustrated on a plan and shall be established prior to any filling or earth moving/removal activities. Except that an attached garage with slab on grade, the grade shall not be raised more than 12 inches to allow for proper drainage. Attached garages with slab on grade do not count to any grade calculation. The slab shall serve as the grade

**This proposed amendment provides clarification regarding limitation on raising of grade plus an additional note that attached garages with slab on grade do not count related to a grade calculation (p. 1-5)**

**Open Space** - Any open area on a lot, without any building or structure, except patios, unbuilt on, containing landscape materials, and pedestrian walks, patios, recreational facilities, but excluding driveways and parking spaces.

**This proposed amendment clarifies the definition of open space and specifically excludes recreational facilities (p. 1-9).**

# SECTION 1. GENERAL

## Subsection 1.4 Definitions and Abbreviations (Continued)

**Pergola** - A detached open shade structure which is incidental to the use of the principal structure on the same lot, and which is not to be used as storage.

This proposed amendment adds a new definition for the term “Pergola” which is found elsewhere in the Bylaw (p. 1-9).

**Setback** - An area open to the sky, located between a street or other property line and any structure or element thereof other than a fence, wall, or other customary yard accessory. Setback is measured perpendicular to the street **right-of-way line** or property line.

This proposed amendment clarifies that “street line” is clarified to refer to the public right-of-way line (p. 1-10).

**Structure** - Anything constructed or erected, the use of which requires fixed location on the ground, including buildings, mobile homes, signs, swimming pools, **pergolas**, and tanks, but for purposes of this By-Law not including walls, fences, or paving.

This proposed amendment adds the term “pergola to the definition of structure (p. 1-13).

## Subsection 1.5 Nonconforming Uses and Structures

### 1.5.4 Nonconforming Single and Two-Family Residential Structures

#### A. General Residence Zoning Districts

- (1) In the General Residence Zoning District, as provided in Massachusetts General Law Chapter 40A, Section 6, preexisting non-conforming structures **that result in additional gross floor area** may be extended or altered **so as to increase their gross floor area** with a Special Permit by the Zoning Board of Appeals, provided that no such extension or alteration shall be permitted unless there is a finding by the Zoning Board of Appeals that such extension or alteration shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Notwithstanding the foregoing, dormers that comply with Section 4.2.2, Linear Requirements, shall be allowed without review by the Zoning Board of Appeals.

This proposed amendment simply shifts the same language to after the action verbs (extended or altered) from before, where it is now (p. 1-15).

# SECTION 1. GENERAL

## Subsection 1.5 Nonconforming Uses and Structures

### 1.5.4 Nonconforming Single and Two-Family Residential Structures

#### **B. Single Residence B Zoning District**

- (4) The Planning Board may grant a Special Permit under this Section 1.5.4.**C B**. (2) or (3) if it finds that the enlarged building:
- (5) In making any Special Permit decision pursuant to this Section 1.5.4.**C B**. (2) or (3), the Planning Board shall consider the following:
- (6) For the purposes of this Section 1.5.4.B., a nonconforming single- and two-family structure shall be defined as a single- and two-family structure on a lot that does not comply with the existing minimum lot area and/or frontage requirements and/or the single- and two-family structure encroaches or otherwise does not comply with one or more setbacks, open space, lot coverage or building height requirements.

An application for a Special Permit under this Section 1.5.4.**C B**. shall comply with the procedures and requirements set forth in Section 7.4 of the Zoning By-law.

#### **C. Single Residence C Zoning Districts**

- (4) The Planning Board may grant a Special Permit under this Section 1.5.4.**B C**. (2) or (3) if it finds that the enlarged building:
- (5) In making any Special Permit decision pursuant to this Section 1.5.4.**B C**. (2) or (3), the Planning Board shall consider the following:
- (6) For the purposes of this Section 1.5.4.C., a nonconforming single- and two-family structure shall be defined as a single- and two-family structure on a lot that does not comply with the existing minimum lot area and/or frontage requirements and/or the single- and two-family structure encroaches or otherwise does not comply with one or more setbacks, open space, lot coverage or building height requirements.

An application for a Special Permit under this Section 1.5.4.**B C**. shall comply with the procedures and requirements set forth in Section 7.4 of the Zoning By-Law.

**These proposed amendments correct typographical errors in these sections. (pp. 1-16 to 1-19).**

# SECTION 1. GENERAL

## Subsection 1.5 Nonconforming Uses and Structures

### 1.5.5 Restoration

A structure which has been damaged by fire or other casualty to an extent less than 50% of the fair market value of the structure on the date of the damage may be restored to its original condition and square footage, regardless of any nonconformity of the structure or its use.

A structure damaged to a greater extent, if dimensionally nonconforming or containing a nonconforming use, may be restored to the previous nonconforming configuration or use only provided such work is started within two (2) years ~~of the damage and completed within three (3) years~~ of the date of the damage and where there is no increase in nonconformance with setback requirements. Any proposed change of use is subject to the provisions of this Section 1.5.

This proposed amendment simply removes the time period in which repairs to a damaged structure must be completed (p. 1-20).

**END OF SECTION 1  
AMENDMENTS**

# SECTION 4. INTENSITY REGULATIONS

## Subsection 4.1 General Requirements

The erection, extension, alteration, or moving of a structure, and the creation or change in size or shape of a lot shall be permitted only in compliance with the intensity and dimensional requirements set forth herein, except as provided at Section 1.5, Non-Conforming Uses and Structures, and in Section 6, Chapter 40A, Massachusetts General Law, and except for lot line changes which create neither additional lots nor increase in nonconformity.

In order to verify that any new construction requiring a plot plan at the time of building permit application complies with the intensity and dimensional requirements set forth herein and any conditions imposed by the SPGA, an 'as-built' plan may be required. This plan, paid for by the property owner, prepared and stamped by a professional engineer (P.E.), architect or Registered Professional Land Surveyor (RPLS) shall be submitted to the ~~Office of Community Development~~ **Office of Planning and Building department** and approved by the Inspector of Buildings prior to the issuance of a Certificate of Occupancy for that building.

**This amendment simply updates the current name of the department. (p. 4-1).**

## Subsection 4.2 Schedule of Dimensional Regulations

### 4.2.2 Linear Requirements for Residential Districts

#### A. Setbacks

1. Ornamental features, such as belt courses, chimneys, eaves, gutters, sills, pilasters, or lintels, may project up to two feet into the setback.
2. In ~~the Single Residence B and C Residential~~ Districts, the placement of ground-mounted outdoor mechanical and fuel storage equipment on a lot shall be subject to the following requirements:
  - a. Not within the front yard - The front yard is defined as the area between a line obtained by extending the front elevation of the dwelling to each of the sidelines of the lot and the front line of the lot;
  - b. Not within the required side or rear setbacks;
  - c. Not within at least 10'-0" of the front elevation; and,
  - d. Screened so that it is not visible from the street or adjacent properties.

**Because this provision is the same for all residential districts, this amendment reflects that (p. 4-3).**

## Subsection 4.2 General Requirements (Continued)

3. For ~~Nea~~ building need be set back more than 30% of the depth of the lot in a Single Residence A or D District, the minimum front setback shall be the least of:
- a. The minimum lot setback requirement listed in Section 4.2.2;
  - b. 30% of the depth of the lot; or,
  - c. The average of the setbacks of the buildings on the lots contiguous thereto on either side. For purposes of determining the average setbacks of the contiguous lots, a vacant lot, a lot occupied by a building set back more than the required minimum, or an intersecting street shall be counted as though occupied by a building set back at the minimum as listed in Table 4.2.2.

However, in no case shall a front yard setback in the SR-A and SR-D district be less than 16'.

~~25% of the lot depth in a Single Residence B or C District, nor more than the average of the setbacks of the buildings on the lots contiguous thereto on either side, a vacant lot, a lot occupied by a building set back more than the required minimum, or an intersecting street being counted as though occupied by a building set back at that minimum. However, in no case shall the setback be less than 15 feet in Single Residence Districts.~~

This amendment cleans up this subsection 3, removes B and C districts, and provides a numbered list rather than a comma delimited sentence (pp. 4-3 and 4-4).

4. For a building in a Single Residence B or C District, the minimum front setback shall be the least of:
- a. The minimum lot setback requirement listed in Section 4.2.2;
  - b. 25% of the depth of the lot; or
  - c. The average of the setbacks of the buildings on the lots contiguous thereto on either side. For purposes of determining the average setbacks of the contiguous lots, a vacant lot, a lot occupied by a building set back more than the required minimum, or an intersecting street shall be counted as though occupied by a building set back at the minimum as listed in Table 4.2.2.

However, in no case shall a front yard setback in the B and C district be less than 16'.

~~Notwithstanding the front setback requirements listed in Section 4.2.2, the front setback for the Single Residence B and C Districts shall may be the average of the front setbacks of the buildings on the lots contiguous thereto on either side. A vacant lot, a lot occupied by a building set back more than the required minimum, or an intersecting street shall be counted as though occupied by a building set back at that minimum.~~

This amendment cleans up this subsection 4, makes it the same as 3 but for B and C, and slightly increases the setback from 15' to 16' to be consistent with subsection 3. (p. 4-4).

## Subsection 4.2 General Requirements (Continued)

5. For a building in a GR District, the minimum front setback shall be the least of:
  - a. The minimum lot setback requirement listed in Section 4.2.2;
  - b. 20% of the depth of the lot; or
  - c. The average of the setbacks of the buildings on the lots contiguous thereto on either side. For purposes of determining the average setbacks of the contiguous lots, a vacant lot, a lot occupied by a building set back more than the required minimum, or an intersecting street shall be counted as though occupied by a building set back at the minimum as listed in Table 4.2.2.

However, in no case shall a front yard setback in the GR district be less than 10'.

Notwithstanding the front setback requirement listed in Section 4.2.2, the front setback for the GR District shall not exceed ~~may be the average of the front setbacks of the buildings on the lots contiguous thereto on either side. A vacant lot, a lot occupied by a building set back more than the required minimum, or an intersecting street shall be counted as though occupied by a building set back at that minimum.~~

This amendment cleans up this subsection 5, makes the language for GR consistent with prior sections on A-D and B-C (p. 4-4).

7. In ~~the SR r~~Residential Districts, the Board of Appeals may grant a Special Permit reducing the rear setback requirement of corner lots and other unusually configured lots to not less than the side requirement, taking into consideration the configuration of the lot, and the effect upon the neighboring property.

This amendment simply modifies reference to single residential to read Residential, which is the same thing but more clear language for the public (p. 4-5).

## Subsection 4.3 Specific Requirements

### 4.3.3 Unenclosed Steps and Similar Projections

~~Subject to Section 4.3.7, the provisions of Section 4.2 shall not apply to:~~

- ~~1) Unenclosed steps, unroofed porches, ramps for the handicapped or other similar features which are not more than three feet high above the adjacent grade and which do not project more than four feet from the foundation wall and in no event are closer than 4 feet to a lot side lot line and 10 feet to a lot rear lot line.~~
- ~~2) Permanent coverings, such as roofs or awnings, affixed to the first story of a dwelling, covering entrances and exits to and from a dwelling, and projecting no more than 5' from the face of the building and no more than 4' horizontally from the outer edges of the door panels, except that no such covering shall extend more than 2' beyond the footprint of the structure and encroach into a side yard.~~

~~unenclosed steps, unroofed porches, ramps for the handicapped or other similar features which are not more than three feet high above the adjacent grade and which do not project more than four feet from the foundation wall and in no event are closer than four feet to a lot sideline and ten feet to a lot rearline.~~

The language from this subsection is retained in full and makes up subsection 1 and subsection 2 is new language added that refers to exceptions made for permanent coverings over entry doors (p. 4-7).

### 4.3.5 Accessory Buildings

#### c) Rear Yard Restrictions

1. A building accessory to a dwelling shall cover not more than 40% of the rear yard of the lot. The rear yard for this provision is defined as the area between a line obtained by extending the rear line of the dwelling to each of the sidelines of the lot and the rear line of the lot.
2. If any part of the accessory building is forward of the rear line of the dwelling, the accessory building shall conform to the front setback, side line and rear line requirements for a dwelling in the district in which the accessory building is located. However, the Board of Appeals may grant a Special Permit for an exemption from this section for corner lots.

The language notes that ZBA make grant an exception to these restrictions in the case of a corner lot since these lots have to front yards and are challenging for the siting of primary and accessory buildings (p. 4-8).

## Subsection 4.3 Specific Requirements (Continued)

### 4.3.6 Tennis Courts and Similar Recreational Facilities

The **regulations setback regulations** which apply to an accessory building in Section 4.3.5 shall also apply to a tennis court and other similar recreational facility as an accessory use. Where a tennis court or other facility is the principal use on a lot or is located in the front yard, the regulations of Section 4.2 shall apply.

**This proposed amendment clarifies that the regulations in 4.3.5 referred to here are specifically setback regulations and this is being clarified (p. 4-9).**

## SECTION 5. GENERAL REGULATIONS

### Subsection 5.1 Off-Street Parking

#### 5.1.2 Schedule of Requirements

- d) Restaurant: one parking space per **2 4** persons seating capacity. For purposes of calculating parking requirements, up to 20 outdoor seasonal seats shall not count in total seating capacity.

**1. Creditable parking: the following spaces may be credited towards meeting these requirements:**

i. **All on-site spaces;**

ii. **In all Business Districts: legal on-street parking spaces, within 600 feet of any entrance to the restaurant, in any Business District; and;**

iii. **Parking spaces located on another parcel, pursuant to Section 5.1.3(a).**

**2. Special Permit for reduction in parking requirement:**

i. **Applicants may seek a Special Permit from the Board of Appeals to reduce the number of spaces below the number required by this Section 5.1.2(d).**

ii. **The Board of Appeals may consider, in addition to the Special Permit criteria of Section 7.4.3, whether:**

- Feasible alternatives for providing necessary parking, including off-site parking, exist; and**
- Any special circumstances making a reduced number of spaces adequate for all parking needs.**

iii. **Where a Special Permit is required under this Section 5.1.3(d)(2), no Design and Site Plan review pursuant to Section 7.3 is necessary from the Planning Board.**

The language modifies restaurant parking requirements as a result of the new restaurant use requirements passed in fall 2023. Specifically, the new language reduces the parking requirements for restaurants from 1 space per 2 person seating capacity to 1 space per 4 person seating capacity. It also provides a multi-element means for determining whether appropriate parking is available to the restaurant by allowing them to add: on-site current or planned parking, on street parking within a certain distance to the restaurant, and potential leased off-street spaces, if available. If a combination of these three sources still does not add up to the new required number, then the applicant may seek relief via special permit with the ZBA (p. 5-1 and 5-2)