

To: Hamilton Select Board
From: Marnie Crouch, Chair, Hamilton Planning Board
Re: Proposed amendments to Hamilton Zoning Bylaw recommended by the Building Commissioner to the Planning Board
Date: January 28, 2025

Pursuant to G.L. ch. 40A, §5, the Planning Board is hereby initiating the following amendments to Hamilton Zoning Hamilton’s Zoning Bylaw and requests that the Select Board include the proposed amendments on the Warrant for the annual 2025 Town Meeting. In accordance with G. L. ch. 40 A, §5, the Planning Board requests that the Select Board refer the proposed amendments back to the Planning Board for a public hearing and a report and recommendation to Town Meeting. Below is a summary of the proposed amendments. The text of the existing Zoning Bylaw Sections with the proposed change follows the summary.

BACKGROUND:

The Building Commissioner, Richard Maloney, on September 11, 2014, submitted a Memorandum to Patrick Reffett, the former Director of Planning and Inspectional Services, outlining proposed corrections/amendments to the Zoning Bylaw, specifically to Section 4.0 and Section 6.3.

The proposed amendments to Section 4.1.2, the Table of Dimensional Regulations, deletes the reference to the ZBA in the Column for the Business District in four (4) places and substitutes the Planning Board (PB) in its stead. The failure to make these change to the Table of Dimensional Regulations appears to have been a scrivener’s error because the 2016 Bylaw, which replaced in its entirety the former Bylaw, substituted the Planning Board as the board empowered to hear and decide applications for site plan approvals. *See* Sections 10.3, 10.4 and 10.6.

The Building Commissioner also recommends elimination of the “Minimum Front Yard setback of 25/50 in the Table of Dimensional Regulations and in Section 4.2.4 and replacing it with 25 feet. He recommends removal of the 50-foot reference because it is ambiguous as “what is typically paved is less than the actual Right of Way and there are many streets in Town that are not paved at all.” He has stated that the provision is obsolete because the Building Department requires certified plot plans for all construction.

The Building Commissioner also recommends an amendment to Section 6.3.5.4 which, as it exists, potentially violates the First Amendment by placing time constraint on protected speech.

PROPOSED WARRANT ARTICLES WITH THE BYLAW AMENDMENTS:

I. To see if the Town will amend the Town of Hamilton Zoning Bylaw by making the change to Section 4.1.2 and Section 4.2.4 as set forth below with language to be deleted in strikethrough and language to be added in bold and underlined, or to take any action relative thereto.

Section 4.1.2 Table of Dimensional Regulations. The Table of Use Regulations is hereby declared to be part of this By-law.

	R1A	R-1B	RA	B
Minimum Lot Area per Dwelling unit (sq. ft.)	20,000	40,000	80,000	ZBAPB ₁
Minimum Lot Frontage (ft.)	125	175	175	ZBAPB ₂
Minimum Lot width and depth (ft.) (for Dwellings, see also Sections 4.2.2, 4.2.6 and 4.3)	100 at building	100 at building	100 at building	ZBAPB ₃
Maximum Building Height (ft.)	35	35	35	35
Maximum number of Stories	3	3	3	3
Maximum Building coverage of Lot (%)	25	25	25	75 ₄
Minimum Front Yard (ft.) (See also Section 4.2.4)	25/ 50 ₅	25/ 50 ₅	25/ 50 ₅	25/ 50 ₅
Minimum Side Yard and Rear Yard (ft.)	15	15	15	ZBAPB ₆

1. For each Dwelling unit, minimum lot area is twenty thousand (20,000) square feet or as determined by the SPGA. For other uses, to be determined during Site Plan Review.

2. For a Building that contains a Dwelling Unit, 125 feet. For all other uses, to be determined during Site Plan Review.

3. To be determined during Site Plan Review.

4. Or as determined during Site Plan Review.

5. Twenty-five (25) feet from the Street line, ~~or fifty (50) feet from the Street center line, whichever is greater.~~

6. For a Dwelling unit, 15 feet. For all other uses, to be determined during Site Plan Review.

Section 4.2.4 Averaging of Setbacks. No building need be set back more than the average setback of the building on either side, a vacant lot being counted as though occupied by a building set back ~~fifty (50) from the street center line~~ **twenty-five (25) feet from the front property line.**

III. To see if the Town will amend the Town of Hamilton Zoning Bylaw by making the change to Section 6.3.5, as set forth below with language to be deleted in strikethrough and language to be added in bold and underlined, or to take any action relative thereto.

6.3.5. 4. Temporary Signage: Signs in place for no more than two months in any calendar year. ~~For two months~~ **P**rior to any national, state, or local election and ~~for one week~~ thereafter, there may be up to five (5) lawn signs per lot. In addition, a temporary sign is one that is on a site that is for sale through a licensed real estate agent, by owner, or through advertising in a local newspaper of general circulation, but such temporary sign must be removed within fifteen (15) days of sale.

IV. To see if the Town will amend the Town of Hamilton Zoning Bylaw by making the change to Section 11.0, Definitions, as set forth below with language to be deleted in strikethrough and language to be added in bold and underlined, or to take any action relative thereto.

Gross Floor Area, Business: The floor area within the perimeter of the outside walls of the building under consideration, without deduction for ~~hallways~~ **corridors**, ~~stairs~~ **stairways**, **ramps**, closets, thickness of **interior** walls, columns, or other features. **The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.**

Gross Floor Area, Residential: ~~The area of a residential structure used for living space, excluding basement and attic area.~~ **Except for the definition of gross floor area applicable to Accessory Dwelling Units, the sum of the areas of all floors of the building, including basements, cellars, mezzanine and intermediate floored tiers and penthouses of headroom height, measured from the exterior faces of exterior walls from the centerline of walls separating buildings, but excluding:**

- 1. Covered walkways, open roofed-over areas, porches and similar spaces.**
- 2. Pipe trenches, exterior terraces or steps, chimneys, roof overhangs and similar features.**