

JUL 05 2017

VT DIVISION FOR
HISTORIC PRESERVATION

TOWN OF BARRE, VERMONT
PLANNING COMMISSION
Report for Municipal Zoning Bylaw Amendment
2017 (1)

In accordance with 24 V.S.A § 4441 (c) the Planning Commission of the Town of Barre submits the following report a Zoning Bylaw amendment. A public hearing is scheduled for July 19, 2017 at approximately 7:00 p.m. at the Town of Barre Municipal Building, 149 Websterville Road, Websterville, VT 0578

Contact: Chris Violette, Planning Director 802-479-2595

The Barre Town Planning Commission is considering an amendment to:

- Article 3, section 3.8 Outdoor storage limitations
- Article 4, section 4.2 Accessory dwellings
- Article 4, section 4.22 Residential structure limits (New)
- Article 5, section 5.5 Conditional use review
- Article 5, section 5.6 Site plan review
- Article 6, section 6.5 PUD
- Article 7, section 7.10 Waivers
- Article 8, definitions – accessory dwelling

Article 3, section 3.8 Outdoor storage limitations

The proposed amendment removes the restriction on using sea shipping containers (or similar containers) as storage buildings. In 2008, after a major overhaul of the Zoning Bylaws, trailers pulled over the road by commercial tractor units and sea shipping containers were restricted from being used for more than a six-month period. The exception to this restriction was and is for commercial and industrial uses if approved by Site Plan.

Practical experience in the last 9 years has shown that concerns for safety and blight haven't materialized for the sea shipping containers. The residents of Barre Town have found shipping containers to be very useful providing safe, secure, and water tight storage. The restriction has also proven to be difficult to enforce.

Article 4, section 4.2 Accessory dwellings

This proposed amendment allows accessory dwellings to be detached from the primary structure. With the proposal to restrict multiple residential structures on one lot contemplated below (Article 4, section 4.22) the feeling is there should to be some allowance for small secondary living accommodations that are separate from the primary dwelling. This may be especially important for small farm living quarters.

Article 4, section 4.22 Residential structure limits (New)

This proposed amendment is new language that will reinstate a restriction that prohibited a parcel from having more than one dwelling on a lot. Prior to the 2008 Zoning Bylaw rewrite, this restriction had been part of the bylaw and was (we believe) inadvertently omitted from the new bylaw. The Town feels it is potentially problematic to have more than one dwelling (except as noted below and accessory dwellings) on a lot due to potential resale issues, neighbor disputes, and hindering the Town's ability to have organized development.

Exempt from this restriction are:

- Planned Unit Developments (PUD's)
- Mobile Home Parks
- Accessory Dwellings
- Rental housing with a single entity owner

Article 5, section 5.5 Conditional use review

This amendment mostly cleans up a poorly organized list of general and specific review standards for Conditional Use approval. It does add clarification that the Development Review Board (DRB) can impose conditions to implement the Town's regulations.

Article 5, section 5.6 Site plan review

This revision simply changes the application submission date for major site plan review to be the same as minors at 22 days before a meeting.

Article 6, section 6.5 PUD

The Planned Unit Development section has several proposed amendments.

1. Would change the spacing between buildings in a PUD from 30' to 20'.
2. Would change the minimum setback from a municipal street from 30' to 25'.
3. Would allow private roads within a PUD.
4. Would allow driveways in a PUD to be shared at a different level than the bylaw allows. This means, at the discretion of the DRB, in a PUD there could be driveways shared by more than two lots and shared curb-cuts serving more than three lots.

Article 7, section 7.10 Waivers

This proposed revision allows more waivers to be issued in certain circumstances and allows the use of mitigation measures per state statute.

Article 8 Definitions

Adds a definition for accessory dwellings.

Sec. 3.8 OUTDOOR STORAGE LIMITATIONS

(A) TRUCK TRAILERS

This limitation is for any trailer, customarily pulled by a commercial tractor unit, for the delivery of goods over the road.

Such trailers shall be limited to no more than two at any one time, shall only be allowed on a temporary basis, and at no time shall a trailer(s) remain on a parcel for more than 6 months in each 12-month period (limitation is cumulative so no combination of trailer(s) shall exceed 6 months in a 12 month period). Commercial and industrial uses shall be exempt from these limitations provided site plan approval is obtained (with the length of time for use of a trailer determined) from the Development Review Board.

Regardless of whether temporary or allowed by site plan approval, the following shall apply:

1. The use of the trailer(s) shall be accessory to the principal use of the property.
2. The trailer(s) shall meet setbacks for the zone in which it lies.
3. The trailer(s) shall not encumber required parking spaces for the subject use.
4. The trailer(s) shall sit on inflated tires.
5. The exterior of the trailer(s) must be maintained to the degree that it does not become a blight including external rusting, holes, safety hazards, graffiti, and generally in good appearance.
6. The trailer(s) shall not be used for advertising of the subject parcel or any other use on any other parcel.
7. If hazardous materials are to be stored in the trailer(s), the container shall be labeled as such and secured in a manner consistent with the U.S. Department of Transportation guidelines and Vermont Department of Environmental Conservation regulations.
8. Exempt from these requirements are farms that qualify as an agricultural use as defined by the State of Vermont, Agency of Agriculture, Food & Markets.

Sec. 3.8 OUTDOOR STORAGE LIMITATIONS

(A) TRUCK TRAILERS PORTABLE STORAGE CONTAINERS

~~This limitation is for Such containers shall include any trailer, customarily pulled by a commercial tractor unit, for the delivery of goods over the road, enclosed container, of whatever type, construction, or material which is transported by a vehicle and left on site, customarily used for the transport of goods, whether by highway or boat, whether mobile or stationary, whether registered and/or inspected or not.~~

Such ~~trailers containers~~ shall be limited to no more than two at any one time, shall only be allowed on a temporary basis, and at no time shall a ~~trailer(s) container or multiple containers~~ remain on a parcel for more than 6 months ~~in a given in each 12 month 12-month period (limitation is cumulative so no combination of trailer(s) shall exceed 6 months in a 12 month period).~~ Uses for Commercial and industrial uses purposes shall be exempt from these limitations provided a conditional use permit and site plan approval is obtained (with the length of time for ~~use occupancy~~ of such a ~~trailer container~~ determined) from the Development Review Board.

Regardless of whether temporary or allowed by ~~conditional use permit and~~ site plan approval, the following shall apply:

1. The use of the ~~trailer(s) container~~ shall be accessory to the principal use of the property.
2. The ~~trailer(s) container~~ shall meet setbacks for the zone in which it lies.
3. The ~~trailer(s) container~~ shall not encumber required parking spaces for the subject use.
4. The ~~trailer(s) container~~ shall sit on inflated tires ~~except in cases where the container does not have tires or any means for tires.~~
5. The exterior of the ~~trailer(s) container~~ must be maintained to the degree that it does not become a blight including external rusting, ~~and holes, or a safety hazards,~~ graffiti, and generally in good appearance.
6. The ~~trailer(s) container~~ shall not be used for advertising of the subject parcel or any other use on any other parcel.
7. If hazardous materials are to be stored in the ~~trailer(s) container~~, the container shall be labeled as such and secured in a manner consistent with the U.S. Department of Transportation guidelines and Vermont Department of Environmental Conservation regulations.
8. Exempt from these requirements are farms that qualify as an agricultural use as defined by the State of Vermont, Agency of Agriculture, Food & Markets.

Sec. 4.2 ACCESSORY DWELLING

Accessory dwellings are allowed in accordance with 24 VSA 117 § 4412 (1) (E) & (F) and further defined in Article 8 of this Bylaw. If the primary dwelling is on municipal sewer an additional sewer unit must be obtained for the accessory dwelling, water will be based on usage. If the primary dwelling is using an on-site septic system, certification from a qualified/certified engineer that the system is capable of handling the additional flow will be necessary. An upgrade to the system may be required. The onsite water supply shall also be adequate to serve both dwellings.

Accessory dwellings require zoning review by submission of a Change of Use Permit.

Accessory dwellings are allowed in any zone where single-family dwellings are allowed such as Conservation, Very High Density, High Density, Medium Density, Low Density, and East Barre Commercial.

Add New
Sec 8.0

Definition:

Accessory Dwelling

An efficiency or two bedroom apartment may be considered as an accessory dwelling if it is located within a single-family dwelling, attached to the dwelling, or detached but located on the same parcel, is clearly subordinate to the primary dwelling, and the primary dwelling is owner occupied. Both dwellings must remain under the same ownership at all times. An accessory dwelling must have facilities and provisions for independent living, including sleeping, food preparation, and provisions for independent living. The accessory dwelling shall not exceed 30% of the floor space of the primary dwelling and must have sufficient wastewater capacity,

Sec. 4.2 ACCESSORY DWELLING

Accessory dwellings ~~are allowed in accordance with -enabled are fully defined in Article 8 of this Bylaw and by 24 VSA 117 § 4412 (1) (E) & (F) and further defined in Article 8 of this Bylaw.)- A dwelling unit may be considered as an accessory dwelling if it is located within a single-family dwelling or attached to the dwelling and the dwelling is owner-occupied. The accessory dwelling shall not exceed 30% of the floor space of the primary dwelling. Sufficient wastewater capacity must be shown -and- if the primary dwelling is on municipal sewer an additional sewer unit must be obtained for the accessory dwelling. water will be based on usage.~~ If the primary dwelling is using an on-site septic system, certification from a qualified/certified engineer that the system is capable of handling the additional flow will be necessary. An upgrade to the system may be required. The onsite water supply shall also be adequate to serve both dwellings.

Accessory dwellings require zoning review by submission of -and- a Change Of Use Permit. Additionally, conditional use review and approval by the Development Review Board (DRB) is required if the proposed accessory dwelling, in accordance with 24 VSA 117 § 4412 (F), meets one or more of the following criteria:

- ~~It is a new structure;~~
- ~~It represents an increase in the height or floor area of the existing dwelling;~~
- ~~It results in an increase in the dimensions of the parking areas.~~

~~Conditional use review is explained fully in Article 5, Sec 5.5 of this Bylaw.~~

Accessory dwellings are allowed in any zone where single-family dwellings are allowed such as Conservation, Very High Density, High Density, Medium Density, Low Density, and East Barre Commercial.

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Added to Article 4

Sec 4.22 Residential structure limits

Only one residential structure shall be permitted on a lot regardless of the lot size, zone, or road frontage. Except as follows:

- Planned Unit Development (Article 6)
- Mobile Home Parks (Article 3, section 3.3 (B))
- Accessory Dwellings (Article 4, section 4.2)
- Single entity owned residential rental housing

1 **Sec. 5.5 CONDITIONAL USE REVIEW**

2
3 No permit shall be issued by the Zoning Administrator for any use, structure, or development which requires a Conditional
4 Use Permit in this bylaw until the DRB grants that approval. In considering its action, the DRB shall make findings on the
5 general and specific standards contained herein, hold hearings and attach conditions as provided for in 24 V.S.A.117 §4414(3),
6 §4460(4), and §4464.
7

8 The DRB shall determine that the proposed use, structure, or development conforms to the following general and specific
9 standards, and shall not result in an undue adverse effect on any of the following.
10

11 **GENERAL REVIEW STANDARDS FOR CONDITIONAL USE APPROVAL**

12 The following general and specific standards are enabled through 24 VSA § 4414 (3) (A) and 4414 (3) (B)

- 13
14
15 1. The impact on the capacity of existing or planned community facilities, to include but not limited to:
16 a. Emergency services
17 b. Educational facilities
18 c. Water, sewer, or other municipal utility systems
19 d. Recreational facilities
20 e. Conservation or other designated natural areas
21 f. Solid waste disposal facilities
22 2. The character of the area affected as defined by the purpose(s) of the zone within which the project is
23 located, and specifically stated policies and standards of the municipal plan;
24 3. Traffic on roads and highways in the vicinity;
25 4. Bylaws and ordinances then in effect;
26 5. Utilization of renewable energy resources.
27 6. Minimum lot size;
28 7. Distance from adjacent or nearby uses;
29 8. Criteria (as needed) adopted relating to site plan review pursuant to Article 5, Sec. 5.6 of this bylaw;
30 9. Any other standards and factors (as needed) that the bylaw may require;
31 10. Off-street parking requirements in accordance with standards outlined in Article 3, Sec. 3.9 of this bylaw;
32 11. Loading/unloading facilities.
33

34 In issuing a conditional use permit, the DRB may impose reasonable conditions to implement the purpose
35 of this bylaw and to ensure that safeguards are in place for orderly development and protection for the
36 Town and its residents.

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 - 15 ~~2.~~ a. Emergency services
 - 16 ~~3.~~ b. Educational facilities
 - 17 ~~4.~~ c. Water, sewer, or other municipal utility systems
 - 18 ~~5.~~ d. Recreational facilities
 - 19 ~~6.~~ e. Conservation or other designated natural areas
 - 20 ~~7.~~ f. Solid waste disposal facilities
- 21 ~~8.~~ 2. The character of the area affected as defined by the purpose(s) of the zone within which the project
- 22 is located, and specifically stated policies and standards of the municipal plan;
- 23 ~~9.~~ 3. Traffic on roads and highways in the vicinity;
- 24 ~~10.~~ 4. Zoning-Bylaws and ordinances bylaws then in effect;
- 25 ~~11.~~ 5. Utilization of renewable energy resources.
- 26 ~~12.~~ 6. The following standards are required by this bylaw
- 27 ~~13.~~ Any required extension or capital expense to the present maintained highway system;
- 28 ~~14.~~ The impact on neighboring uses;
- 29 ~~15.~~ Intrinsic capability of the land and its surrounding areas to support the use;

30 **(B) SPECIFIC REVIEW STANDARDS FOR CONDITIONAL USE APPROVAL**

- 31 ~~1.~~ 2. Minimum lot size;
- 32 ~~2.~~ 7. Distance from adjacent or nearby uses;
- 33 ~~3.~~ 8. Criteria (as needed) ~~as~~ adopted relating to site plan review pursuant to Article 5, Sec. 5.6 ~~(6)~~ of this
- 34 bylaw;
- 35 ~~4.~~ 9. Any other standards and factors (as needed) that the bylaw may require;
- 36 ~~5.~~ Possible requirements by the DRB that the applicant install, operate, and maintain any and all devices
- 37 which may be used to prevent or reduce fumes, gas, dust, smoke, odor, noise, vibration, or any similar
- 38 nuisance. Performance standards shall be specified by the appropriate State regulatory agency;
- 39 ~~6.~~ 10. Off-street parking requirements in accordance with standards outlined in Article 3, Sec. 3.9 of this
- 40 bylaw;
- 41 ~~7.~~ 11. Loading/unloading facilities.

42
43 In issuing a conditional use permit, the DRB may impose reasonable conditions to implement the purpose
44 of this bylaw and to ensure that safeguards are in place for orderly development and protection for the
45 Town and its residents.
46
47

Sec. 5.6 SITE PLAN REVIEW

No permit shall be issued by the Zoning Administrator for any use, structure, or development which requires site plan review and approval until the DRB grants that approval. In considering its action, the DRB shall make findings on the general and specific standards contained herein, hold hearings and attach conditions as provided for in 24 V.S.A.117 §4416.

One hearing shall be held for site plans classified as **minor**, and two hearings shall be held for site plans classified as **major**.

(A) MAJOR AND MINOR CLASSIFICATION

The applicant shall file one (1) plan for review by the Zoning Administrator to be examined and classified by the Zoning Administrator as either a **major** or **minor** development application using the criteria laid out in this section.

Square footage is figured as gross useable floor area of a structure. Whether a space is unusable shall be determined by the Zoning Administrator and/or the DRB.

1. **Major Classification.** An application for land development is considered **major** if it meets one or more of the criteria listed below:
 - a. **Retail Commercial, Professional Commercial, or Office use:** The proposal includes construction of a new structure, or expansion of an existing structure, which will exceed 2,500 square feet.
 - b. **Hotel, Motel, Bed and Breakfast.**
 - c. **Restaurant use:** The proposal includes construction of a new structure or an expansion of an existing structure that exceeds 2,500 square feet.
 - d. **Industrial use:** the proposal includes construction of a new structure that exceeds 4,000 square feet, or an expansion of an existing structure that will make the overall size of the structure exceed 4,000 square feet.
 - e. **Combined use:** any combination of the above categories which proposed construction exceeds 3,000 square feet.
 - f. **Commercial or Industrial Expansion:** any proposed expansion of an existing structure that increases the overall size to 3,500 square feet.
 - g. **Earth disturbance/Extraction/Quarrying** – Any proposed land development that disturbs at least one-half (1/2) acre of land for the purpose of extracting natural resources or the storage of solid waste. This provision includes any proposed land development that requires a significant amount of fill as determined by the Zoning Administrator.
 - h. Any proposed land development that requires significant additions or changes to any **public utility or facility** – including but not limited to: streets, roads, sidewalks, water, sewer and storm water control.
 - i. Any proposed land development that has a significant impact on either **traffic patterns or traffic generation** in the areas around the development, and/or would create an added negative impact in an existing heavy traffic area.
2. **Minor Classification.** All applications for proposed land development that do not meet any of the standards for major classification shall be considered **minor**, and still subject to development review in accordance with 24 VSA.117, and the criteria listed in Article 5, Sec. 5.5 (5) (h) through (j).

B) SITE PLAN REVIEW SUBMITTAL REQUIREMENTS

For all minor and major applications requiring a site plan review, the applicant must submit ten (10) additional copies of the site plans and any additional documentation required. Site plans must be submitted at least ~~22+8~~ days prior to the hearing scheduled by the DRB ~~for minor site plan applications, and at least 30 days prior for major site plan applications.~~ A copy of the application and corresponding documentation shall be kept on file in the Planning and Zoning Department and be made available to the public during regular business hours.

Sec. 6.5 **PLANNED UNIT DEVELOPMENT (PUD) STANDARDS AND REVIEW CRITERIA**

(A) STANDARDS

1. Development Standards

The DRB may allow for varied residential uses, densities, and intensities within a PUD that do not otherwise correspond with or are not otherwise expressly permitted by the bylaws for the zone in which the proposed PUD is located.

Nevertheless, the following shall apply:

- a. The applicant shall submit a site plan to the DRB showing the location, height and spacing of buildings, open spaces and their landscaping, streets, driveways, off-street parking spaces, and all other physical features. The site plan shall be accompanied by a statement setting forth the nature of all proposed modifications, changes or supplementations of existing zoning regulations together with such other information as the DRB shall require;
- b. A PUD application may be reviewed and approved with multiple landowners of adjoining parcels as long as the overall development pattern is cohesive and makes for a logical layout in the judgment of the DRB. If multiple owners are involved, each owner shall file his/her own application and subsequently the DRB shall review each application and may choose to approve one and not another.
- c. Any proposed PUD developments except for elderly/disabled housing complexes must have a minimum of five acres of land and shall comply with the following minimum number of dwelling units based on acreage:

Acreage=Number of dwelling units					
5=6	6=7	7=8	8=9	9=10	10=12
11=13	12=14	13=15	14=16	15=18	16=19
17=20	18=21	19=22	20=24		

Follow Same Pattern for Larger Parcels

Units of residential living space may be housed in individual structures or in multi-unit structures. Elderly/disabled housing complexes shall have a minimum of two acres of land and are not restricted to the number of units as in a PUD.

- d. Any proposed PUD developments must comply with Town of Barre Standards for the construction of infrastructure proposed to be taken over by the Town including associated fees for such take over that may exist in accordance with Barre Town Code.
- e. A proposed PUD may be implemented in a phased construction schedule, if approved by the DRB at the time of the first application. A clear master plan showing the general intent of subsequent phases shall be submitted at the first application. Submission of the master plan does not necessarily bind the developer to the exact development as presented on the master plan but should give the DRB a general idea of what the overall PUD will look like. Phasing shall also be considered when it is determined by the DRB that the proposed development will cause an undue burden on the municipal facilities and services.
 - a. To qualify for consideration as a PUD:
 - (a) The proposed project shall have municipal water and sewer available for use, and
 - (b) The developed portion (i.e. "coverage area") of the proposed project shall not exceed 75 percent (75%) of the total square footage of ground area within the PUD envelope.
 - g. For the purpose of calculating coverage area, the 75 percent figure is defined as the total of all/any buildings, structures, and other impervious surfaces including parking, roadways, walkways, etc. and shall exclude land around the structures as noted in 2. d. below. The applicant shall show, somewhere on the

Sec. 7.10 WAIVERS

Waivers are intended to allow the reduction of dimensional requirements in accordance with specific standards as allowed for 24 VSA 4414 (8). The primary intent of this provision is to provide relief to lots unduly burdened by zoning requirements adopted after the lots were created. Request for waivers shall be heard by the Development Review Board. Waivers may be considered in the following cases.

1. Structures providing for disability accessibility, fire safety, and other requirements of law;
2. To provide reasonable expansions of existing uses because of limitations on the property due to lot configuration, topography, or structure placement and was in conformance to the Zoning Bylaw in effect at the time.

In all cases the waiver:

- i. Shall be in compliance with the Town plan and State planning goals
- ii. Must not change the overall character of the area in which the project is located
- iii. Shall not exceed 50% of the dimensional standard being waived

The Development Review Board may impose mitigation through design, screening, or other remedies.

Sec. 7.10 WAIVERS

Waivers are intended to allow the reduction of dimensional requirements in accordance with specific standards as allowed for 24 VSA 44~~1418~~ (8). The primary intent of this provision is to provide relief to lots unduly burdened by zoning requirements adopted after the lots were created. Request for waivers shall be heard by the Development Review Board as Conditional Use Permits under Article 5, Sec. 5.5 and requests for waivers must be acceptable with regard to how they meet the criteria. Waivers may be considered in the following cases.

- ~~1. Lots and structure in existence prior to the enactment of this bylaw;~~
1. Structures providing for disability accessibility, and fire safety, and other requirements of law;
2. To provide reasonable expansions of existing uses because of limitations on the property due to lot configuration, topography, or structure placement and was in conformance to the Zoning Bylaw in effect at the time.

In all cases the waiver:

- i. Shall be in compliance with the Town plan and State planning goals
- ii. Must not change the overall character of the area in which the project is located
- iii. Shall not exceed 50% of the dimensional standard being waived

The Development Review Board may impose mitigation through design, screening, or other remedies.

At the discretion of the DRB, a survey or confirmation of exact boundary lines may be required as part of the request.