

GUIDE TO ARTICLE 4

ADOPTED BY THE 1999 ANNUAL TOWN MEETING

*Realtors' Meeting
June 9, 1999*

ARTICLE 4: AMEND ZONING BY-LAW - DIMENSIONAL REGULATIONS FOR SINGLE RESIDENCE B AND GENERAL RESIDENCE DISTRICTS AND DEFINITION OF HALF-STORY FOR SINGLE-FAMILY AND TWO-FAMILY DETACHED DWELLINGS

To see if the Town will vote to amend the Zoning By-Law as follows:

1. In Section 1.3, Definitions, by deleting the existing definition of the term “Half-story” and by inserting in its place the following new definition:

“Half-story or ½ story - For all single-family detached dwellings and two-family detached dwellings, that portion of a building included between the upper surface of a floor and the lower surface of a sloping roof next above where the area contained therein has a finished ceiling height exceeding 5'- 0". Dormers installed in a sloping roof directly above the second story of a structure shall be limited in size as follows: the total length of the front wall(s) of a dormer(s) shall not exceed 30% (thirty percent) of the eave length of the portion of the roof in which the dormer is built. There are no restrictions on dormers installed in a sloping roof directly above the first story of a structure. This definition shall apply to all single-family detached dwellings and two-family detached dwellings. For all other buildings the definition is, that part of a building under a sloping roof where the full-length rafters rest on the top beam of the story below.”

2. In Section 4.2, Dimensional Regulations for Rural-Residence Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.1, Table of Regulations, by revising the third row in the Table “Single Residence B” so that it shall read as follows:

	“Minimum Lot Area (sq.ft.)	Minimum Frontage (feet)	Front Setback (feet)	Side Setback (feet)	Rear Setback (feet)	Maximum Floor Area Ratio (F.A.R.)	Maximum % Lot Coverage	Maximum Stories	Maximum Height (feet)
Single Residence B	10,000	80	20 (b)	12.5 (c)(g)(i)	10 (d)(g)(j)	NR (e)	NR (f)(k)	2-1/2	35”

3. In Section 4.2, Dimensional Regulations for Rural-Residence Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.1, Table of Regulations, by revising the fourth row in the Table “General Residence” so that it shall read as follows:

	“Minimum Lot Area (sq.ft.)	Minimum Frontage (feet)	Front Setback (feet)	Side Setback (feet)	Rear Setback (feet)	Maximum Floor Area Ratio (F.A.R.)	Maximum % Lot Coverage	Maximum Stories	Maximum Height (feet)
General Residence	10,000	80	20 (b)	12.5 (c)(g)(i)	10 (d)(g)(j)	NR (e)	NR (f)(k)	2-1/2	35”

4. In Section 4.2, Dimensional Regulations for Rural-Residence Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.1, Table of Regulations, by revising footnote (g) and by adding a new footnote (i), a new footnote (j), and a new footnote (k), which shall read as follows:

“(g) Excepting buildings and structures on any lot in a Single Residence A, Single Residence B or General Residence District devoted to a public, semi-public or institutional use as listed in Section 3.2 Schedule of Use

Regulations and buildings and structures on any lot in a Single Residence B or General Residence District created through “New Construction”, buildings and structures on lots created by deed or plan, endorsed or recorded before January 9, 1986, shall have a minimum side or rear line setback of 15 feet in the Single Residence A and Institutional Districts and 10 feet in the Single Residence B and General Residence Districts, respectively.*

(i) Buildings and structures created on any lot through “New Construction” and buildings and structures on lots created by deed or plan, endorsed or recorded after January 9, 1986, shall have a minimum side line setback requirement of 12.5 feet in the Single Residence B and General Residence Districts. A maximum of 28 linear feet of structure, as measured parallel to the side lot line at the first-floor plane, may be constructed to the minimum side setback line. For the remaining length of structure, as measured parallel to the side lot line at the first-floor plane, the minimum side line setback distance shall be increased to 14.5 feet. This requirement shall not apply to buildings and structures on any lot in a Single Residence B or General Residence District devoted to a public, semi-public or institutional use as listed in Section 3.2 Schedule of Use Regulations which uses are governed by footnote (c) herein. Notwithstanding anything to the contrary contained herein, the minimum side line setback requirement for all buildings and structures on any lot in a Single Residence B District which contains less than 10,000 square feet or has less than 80 feet of frontage shall be 10.0 feet.*

(j) Buildings and structures created on any lot through “New Construction” shall have a minimum rear line setback requirement of 20 feet in the Single Residence B and General Residence Districts. This requirement shall not apply to buildings and structures on any lot in a Single Residence B or General Residence District devoted to a public, semi-public or institutional use as listed in Section 3.2 Schedule of Use Regulations which uses are governed by footnote (d) herein.*

(k) In the Single Residence B District, buildings and structures created on any lot through “New Construction” shall not result in lot coverage exceeding the following specified maximum percentages of the area of such lot: For lots containing less than 5,500 square feet - 30%; For lots containing at least 5,500 square feet but less than 6,000 square feet - 29%; For lots containing at least 6,000 square feet but less than 6,500 square feet - 28%; For lots containing at least 6,500 square feet but less than 7,000 square feet - 27%; For lots containing at least 7,000 square feet but less than 7,500 square feet - 26%; and For lots containing at least 7,500 square feet - 25%. In the General Residence District, buildings and structures created on any lot through “New Construction” shall not result in lot coverage exceeding the following specified maximum percentages of the area of such lot: For lots containing less than 7,000 square feet - 35%; For lots containing at least 7,000 square feet but less than 7,500 square feet - 34%; For lots containing at least 7,500 square feet but less than 8,000 square feet - 33%; For lots containing at least 8,000 square feet but less than 8,500 square feet - 32%; For lots containing at least 8,500 square feet but less than 9,000 square feet - 31%; and For lots containing at least 9,000 square feet - 30%. For purposes of this section lot coverage shall be defined as that portion of a lot that is covered or occupied by buildings or structures, but excluding unenclosed porches and decks, and pools. This requirement shall not apply to buildings and structures on any lot in a Single Residence B or General Residence District devoted to a public, semi-public or institutional use as listed in Section 3.2 Schedule of Use Regulations which uses are governed by footnote (f) herein.*

*As used in footnotes (g), (i), (j), and (k) of the Table of Regulations the term “New Construction” shall be defined as any one, or any combination of the following: (a) Any construction of a structure on a vacant lot; (b) Any construction which involves demolition of more than 50% (fifty percent) of the exterior frame or exterior envelope of an existing structure; (c) Any addition to an existing one-story structure which results in a gross floor area greater than 240% (two hundred forty percent) of the gross floor area of the existing structure; (d) Any addition to an existing one and one-half story structure which results in a gross floor area greater than 220% (two hundred twenty percent) of the gross floor area of the existing structure; and (e) Any addition to an existing two-story or two and one-half story structure which results in a gross floor area greater than 175% (one hundred seventy-five percent) of the gross floor area of the existing structure. Gross floor area for purposes of this definition is as defined in Section 1.3 of the Zoning By-Law under the heading “Floor Area, Gross”. For purposes of calculating the percentages of any construction, addition or demolition under this definition, all construction shall be taken into

account which commenced, or could have commenced, pursuant to an issued permit within two (2) years prior to the date of any request for any permit to construct, re-construct, alter, add, extend or otherwise structurally change any structure.”

5. In Section 4.2, Dimensional Regulations for Rural-Residence Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.1, Table of Regulations, by adding a new footnote (l) under the Maximum Stories column in the Rural-Residence Conservation, Single Residence A, Single Residence B, General Residence and Institutional rows to read as follows:

“(l) See the definition of Half-story, under Story in the Definitions section.”

Or take any other action relative thereto.

Article 4 Explanation: Article 4 establishes new setback and lot coverage requirements for “new construction” in the Single Residence B and General Residence Districts. “New construction” is defined in the article as: (1) Any construction of a structure on a vacant lot; (2) Any construction which involves demolition of more than 50% (fifty percent) of the exterior frame or exterior envelope of an existing structure; (3) Any addition to an existing one-story structure which results in a gross floor area greater than 240% (two hundred forty percent) of the gross floor area of the existing structure; (4) Any addition to an existing one and one-half story structure which results in a gross floor area greater than 220% (two hundred twenty percent) of the gross floor area of the existing structure; and (5) Any addition to an existing two-story or two and one-half story structure which results in a gross floor area greater than 175% (one hundred seventy-five percent) of the gross floor area of the existing structure. For purposes of calculating the percentages of any construction, addition or demolition under this definition, all construction shall be taken into account which commenced, or could have commenced, pursuant to an issued permit within two (2) years prior to the date of any request for any permit to construct, re-construct, alter, add, extend or otherwise structurally change any structure. This last provision is designed to prevent builders from accomplishing under multiple building permits what would not be allowed under one building permit. It does this by requiring that the Building Inspector take into account, in reviewing a permit application, any building permits issued within the previous two years for the property.

Article 4 restricts the size of “new construction” in two ways. First, it imposes a “lot coverage” requirement. Second, it changes side line and rear line setbacks.

“Lot coverage” is defined as a fraction, or percentage, calculated by dividing the square footage of the lot covered by buildings or structures (often called the “footprint”), by the square footage of the lot on which it is located. For purposes of calculating lot coverage, the amendment excludes unenclosed porches and decks. The article establishes a sliding scale lot coverage requirement in the Single Residence B and General Residence Districts for “new construction”. In the Single Residence B District the lot coverage requirements are as follow: for lots containing less than 5,500 square feet, the lot coverage can be no more than 30%; for lots containing at least 5,500 square feet but less than 6,000 square feet, the lot coverage can be no more than 29%; for lots containing at least 6,000 square feet but less than 6,500 square feet, the lot coverage can be no more than 28%; for lots containing at least 6,500 square feet but less than 7,000 square feet, the lot coverage can be no more than 27%; for lots containing at least 7,000 square feet but less than 7,500 square feet, the lot coverage can be no more than 26%; and for lots containing 7,500 square feet or more, the lot coverage can be no more than 25%. In the General Residence District the lot coverage requirements are as follows: for lots containing less than 7,000 square feet, the lot coverage can be no more than 35%; for lots containing at least 7,000 square feet but less than 7,500 square feet, the lot coverage can be no more than 34%; for lots containing at least 7,500 square feet but less than 8,000 square feet, the lot coverage can be no more than 33%; for lots containing at least 8,000 square feet but less than 8,500 square feet, the lot coverage can be no more than 32%; for lots containing at least 8,500 square feet but less than 9,000 square feet, the lot coverage can be no more than 31%; and for lots containing 9,000 square feet or more, the lot coverage can be no more than 30%.

Article 4 also establishes setback requirements for “new construction” in the Single Residence B and General

Residence Districts. "Setback" is defined in the Zoning By-Law as the "Minimum horizontal distance from a street line or a lot line to any part of a building or structure, including overhang, but not uncovered steps, fences or awnings." The article stipulates that buildings created through "new construction" shall have a minimum rear line setback of 20 feet. This is an increase from the present rear line setback of 10 feet. The side line setback provisions for Single Residence B and General Residence are more complicated. The present situation is that lots created before January 9, 1986 are subject to a 10-foot side line setback, and lots created after that date to a 20-foot side line setback. What the articles establishes is that on lots on which "new construction" takes place, and on lots created after January 9, 1986, whether or not there is "new construction", a 12.5-foot side line setback requirement must be met. This is a 2.5-foot increase for lots created prior to January 9, 1986 on which "new construction" takes place. All other lots created prior to January 9, 1986 continue to be governed by the 10-foot side line setback. All lots located in a Single Residence B District which contain less than 10,000 square feet or less of have less than 80 feet of frontage continue to be governed by the 10.0-foot side line setback requirement.

The final setback change for "new construction" establishes a stepped side line setback and works as follows: If you build the side of the house along the setback line, it can extend for a distance of only 28 feet at the 12.5-foot setback line. Any additional length must be set back an additional two feet. So, under the article, 28 feet of the side of the house could be located 12.5 feet from the side lot line, the remainder would have to be at least 14.5 feet back from that line.

Finally, the article clarifies what may be included in the top half-story in a 2½ story single or two-family dwelling, and applies to all districts where such uses are allowed by right or by special permit and the height limit is 2½ stories. The 2½ story limitation is not to change. What does change is the definition of "½ story" so as to allow for the placement of dormers in the "½ story" subject to the following restriction: (1) the length of dormers installed in a sloping roof directly above the second story of a structure could not exceed 30% of the eave length of the portion of the roof in which the dormer is built. There are no restrictions on the length of dormers installed in a sloping roof directly above the first story of a structure.

Article 4, although not going as far as some would like, will reduce the number of contrived lots. Increasing setbacks and establishing a lot coverage requirement for new construction and its functional equivalent will result in residential construction more characteristic of Needham's existing neighborhoods. Allowing for the placement of dormers in the half-story will afford residents an additional means of meeting their space needs without significantly increasing overall house bulk.

Article 1: AMEND ZONING BY-LAW - SIDE LINE SETBACK EXEMPTION FOR “NEW CONSTRUCTION” IN GENERAL RESIDENCE DISTRICT

To see if the Town will vote to amend the Needham Zoning By-Law, Section 4.2, Dimensional Regulations for Rural Residence-Conservation, Single A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.1 Table of Regulations, by revising the last sentence of footnote (i) thereof so that it shall read as follows (new language underlined):

“Notwithstanding anything to the contrary contained herein, the minimum side line setback requirement for all buildings and structures on any lot in a Single Residence B or General Residence District which contains less than 10,000 square feet or has less than 80 feet of frontage shall be 10 feet.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: No Position Taken

Article 1 Explanation: Article 1 would reduce the side line setback requirement to 10 feet for lots in the General Residence District on which “new construction” is proposed, if the lot is under 10,000 square feet in area or has less than 80 feet of frontage. This reduction has already been applied by Town Meeting to such lots in the Single Residence B District. The amendment would create parity between two similar zoning districts.

At the present time “new construction” in the General Residence District must meet a stepped side line setback as follows: If you build the side of the house along the setback line, it can extend for a distance of only 28 feet at the 12.5-foot setback line. Any additional length must be set back an additional two feet. So, under the current rules, 28 feet of the side of the house could be located 12.5 feet from the side lot line, the remainder would have to be at least 14.5 feet back from that line.

“New construction” is defined as: (1) Any construction of a structure on a vacant lot; (2) Any construction which involves demolition of more than 50% of the exterior frame or exterior envelope of an existing structure; (3) Any addition to an existing one-story structure which results in a gross floor area greater than 240% of the gross floor area of the existing structure; (4) Any addition to an existing one and one-half story structure which results in a gross floor area greater than 220% of the gross floor area of the existing structure; and (5) Any addition to an existing two-story or two and one-half story structure which results in a gross floor area greater than 175% of the gross floor area of the existing structure.

Article 2: AMEND ZONING BY-LAW - SIDE LINE SETBACK SPECIAL PERMIT FOR “NEW CONSTRUCTION” IN SINGLE RESIDENCE B AND GENERAL RESIDENCE DISTRICT

To see if the Town will vote to amend the Needham Zoning By-Law, Section 4.2, Dimensional Regulations for Rural Residence-Conservation, Single A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.1 Table of Regulations, by adding a new sentence to the end of footnote (g) as follows:

“In a Single Residence B or General Residence District, any building or structure that meets current zoning requirements but is prevented from commencing “New Construction” because the “New Construction” will be within the 12.5-foot side line setback, but not within the 10-foot side line setback, may commence the “New Construction” upon receipt of a special permit from the Board of Appeals under Section 7.5.2 of the Zoning By-Law, provided: (1) the “New Construction” meets all other requirements of the Zoning By-Law; (2) the Board determines that such change, extension, alteration, or enlargement would not be substantially more detrimental to the neighborhood than the existing structure; and (3) no more than 50% of the exterior frame or exterior envelope of the existing structure is demolished as a function of the proposed construction activity.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: No Position Taken

Article 2 Explanation: Article 2 would give the Board of Appeals the authority to issue a special permit, after public notice and hearing, to a landowner proposing "new construction" in the Single Residence B or General Residence districts. Such a special permit would allow a landowner whose house was already 10 feet or more but less than 12.5 feet from the side line of the lot to seek a special permit to construct a large addition, rather than tearing the house down, so long as that landowner: (1) meets all of the other requirements of the by-law, including the lot coverage requirement, (2) satisfies the Board of Appeals that the change would not be substantially more detrimental to the neighborhood than the existing structure, and (3) does not demolish more than 50% of the exterior frame of the structure.

This would be a clarification of the by-law's language to accomplish the Planning Board's original intent.

When the Planning Board drafted the by-law amendment last spring, it and the Building Inspector reasoned that the Board of Appeals already had authority to grant a special permit in the limited circumstances described above. When the Board of Appeals disagreed, it became necessary to propose this article.

Article 1: AMEND ZONING BY-LAW - SIDE LINE SETBACK EXEMPTION FOR "NEW CONSTRUCTION" IN GENERAL RESIDENCE DISTRICT

To see if the Town will vote to amend the Needham Zoning By-Law, Section 4.2, Dimensional Regulations for Rural Residence-Conservation, Single A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.1 Table of Regulations, by revising the last sentence of footnote (i) thereof so that it shall read as follows (new language underlined):

"Notwithstanding anything to the contrary contained herein, the minimum side line setback requirement for all buildings and structures on any lot in a Single Residence B or General Residence District which contains less than 10,000 square feet or has less than 80 feet of frontage shall be 10 feet."

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: No Position Taken

Article 1 Explanation: Article 1 would reduce the side line setback requirement to 10 feet for lots in the General Residence District on which "new construction" is proposed, if the lot is under 10,000 square feet in area or has less than 80 feet of frontage. This reduction has already been applied by Town Meeting to such lots in the Single Residence B District. The amendment would create parity between two similar zoning districts.

At the present time "new construction" in the General Residence District must meet a stepped side line setback as follows: If you build the side of the house along the setback line, it can extend for a distance of only 28 feet at the 12.5-foot setback line. Any additional length must be set back an additional two feet. So, under the current rules, 28 feet of the side of the house could be located 12.5 feet from the side lot line, the remainder would have to be at least 14.5 feet back from that line.

"New construction" is defined as: (1) Any construction of a structure on a vacant lot; (2) Any construction which involves demolition of more than 50% of the exterior frame or exterior envelope of an existing structure; (3) Any addition to an existing one-story structure which results in a gross floor area greater than 240% of the gross floor area of the existing structure; (4) Any addition to an existing one and one-half story structure which results in a gross floor area greater than 220% of the gross floor area of the existing structure; and (5) Any addition to an existing two-story or two and one-half story structure which results in a gross floor area greater than 175% of the gross floor area of the existing structure.

Article 2: AMEND ZONING BY-LAW - SIDE LINE SETBACK SPECIAL PERMIT FOR "NEW CONSTRUCTION" IN SINGLE RESIDENCE B AND GENERAL RESIDENCE DISTRICT

To see if the Town will vote to amend the Needham Zoning By-Law, Section 4.2, Dimensional Regulations for Rural Residence-Conservation, Single A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.1 Table of Regulations, by adding a new sentence to the end of footnote (g) as follows:

"In a Single Residence B or General Residence District, any building or structure that meets current zoning requirements but is prevented from commencing "New Construction" because the "New Construction" will be within the 12.5-foot side line setback, but not within the 10-foot side line setback, may commence the "New Construction" upon receipt of a special permit from the Board of Appeals under Section 7.5.2 of the Zoning By-Law, provided: (1) the "New Construction" meets all other requirements of the Zoning By-Law; (2) the Board determines that such change, extension, alteration, or enlargement would not be substantially more detrimental to the neighborhood than the existing structure; and (3) no more than 50% of the exterior frame or exterior envelope of the existing structure is demolished as a function of the proposed construction activity."

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: No Position Taken

Article 2 Explanation: Article 2 would give the Board of Appeals the authority to issue a special permit, after public notice and hearing, to a landowner proposing "new construction" in the Single Residence B or General Residence districts. Such a special permit would allow a landowner whose house was already 10 feet or more but less than 12.5 feet from the side line of the lot to seek a special permit to construct a large addition, rather than tearing the house down, so long as that landowner: (1) meets all of the other requirements of the by-law, including the lot coverage requirement, (2) satisfies the Board of Appeals that the change would not be substantially more detrimental to the neighborhood than the existing structure, and (3) does not demolish more than 50% of the exterior frame of the structure.

This would be a clarification of the by-law's language to accomplish the Planning Board's original intent.

When the Planning Board drafted the by-law amendment last spring, it and the Building Inspector reasoned that the Board of Appeals already had authority to grant a special permit in the limited circumstances described above. When the Board of Appeals disagreed, it became necessary to propose this article.
