

2018 Annual Town Meeting
Article 32, 33, 34, 35, 36, 37, 38, 39 & 40 - Zoning Bylaw Amendments
Article 41 – General Bylaw
Planning Board Report -April 3, 2018

In accordance with M.G.L. c. 40A, § 5, the Planning Board conducted a public hearing on March 6, 2018 to review Article 32, 33, 34, 35, 36, 37, 38, 39, 40, and 41.

Article 32 Zoning Bylaw Amendment – Marijuana Establishment Moratorium Extension

The Planning Board believes that the extension of the Marijuana Establishment Moratorium is necessary because the current moratorium will expire on July 31, 2018 and if Article 30 Opt-out fails at Town Meeting or at the subsequent ballot and Article 32 does not pass, the Town will need to adopted new Zoning Bylaws to regulate marijuana establishments by July 31, 2018 or let the current temporary moratorium expire with no zoning regulations. If it expires with no zoning regulations, marijuana establishments would be considered like any other retail business, product manufacturer and industrial growing operation and permitted by-right in applicable Zoning Districts. **The Planning Board unanimously voted to recommend affirmative action on Article 32.**

Article 33 Zoning Bylaw Amendment – Definition of a Dwelling Unit

The Planning Board believes that adding the word “private” to the definition will help clarify the meaning and intent and will help residents understand what they can include in accessory structures, basements and home offices without those areas becoming separate dwelling units. **The Planning Board unanimously voted to recommend affirmative action on Article 33.**

Article 34 Zoning Bylaw Amendment – Height of Accessory Buildings

The Planning Board believes that the current Zoning Bylaw provision that allows an accessory structure located behind the dwelling to be located as close as 5 feet from the rear and side property line was intended for detached, single story garages or small sheds. It did not anticipate structures that are 35 feet tall and almost as large as the principal dwelling. These structures overshadow adjacent properties and may become a source of conflict between adjacent property owners. Property owners can still build these tall accessory structures if they meet the required setback or get a waiver from the Zoning Board of Appeals. **The Planning Board unanimously voted to recommend affirmative action on Article 34.**

Article 35 Zoning Bylaw Amendment – Combined Business/Residence

The Planning Board believes that the open space provision in Section 4.2.3 hinders several property owners in the village centers from considering combined business/residential use for their existing buildings. An option currently available to property owners is to seek relief from parking requirements to reduce the number of parking spaces and eliminate pavement, thereby increasing the amount of open space. This is likely not ideal in the village centers. In many locations where combined business/residence would be ideal, there are alternative open space opportunities available within walking distance. Allowing a waiver to the open space requirement in those cases promotes mixed use development in the denser commercial districts. **The Planning Board unanimously voted to recommend affirmative action on Article 35.**

Article 36 Zoning Bylaw Amendment – Reconstruction of Nonconforming Structures

This Warrant Article is a housekeeping item to clarify Section 7.1.5 and help to eliminate any ambiguity in the meaning and intent of the section. The Board would like to point out that in the current Bylaw, Section 7.1.5(d) was unintentionally omitted in the printing of the Warrant. **The Planning Board unanimously voted to recommend affirmative action on Article 36 as printed in the Warrant with the inclusion of the following existing language which was unintentionally omitted in the Warrant: Section 7.1.5(d); *extension of a structure by more than fifty percent (50%) is based on the aggregate of all expansions undertaken within a consecutive five (5) year period.***

Article 37 Zoning Bylaw Amendment – Off Street Parking, Loading & Design Standards

This Warrant Article is a housekeeping item to delete real estate agency from the financial and business office parking requirement. At the 2017 Annual Town Meeting a real estate agency was classified as a professional office instead of a financial and business office. Deleting the reference to real estate agency from Financial and Business Office parking requirement will not change the parking requirement for a professional office and a financial and business office since they are the same; one space per 250 square feet of gross floor area. **The Planning Board unanimously voted to recommend affirmative action on Article 37.**

Article 38 Zoning Bylaw Amendment – Site Plan Review

The Planning Board believes that incorporating a Site Plan Review criteria that addresses sustainability further supports the Town's sustainability goals as adopted under APP#30 Sustainable Municipal Practices and the passage of Article 51 Concord's Energy Goals at the 2017 Annual Town Meeting. **The Planning Board unanimously voted to recommend affirmative action on Article 38.**

Article 39 Zoning Bylaw Amendment – Site Plan Review for Religious Uses, Educational Uses & Child Care Facilities

The Planning Board believes that incorporating a Site Plan Review criteria for religious, educational and child care uses that addresses sustainability further supports the Town's sustainability goals as adopted under APP#30 Sustainable Municipal Practices and the passage of Article 51 Concord's Energy Goals at the 2017 Annual Town Meeting. **The Planning Board unanimously voted to recommend affirmative action on Article 39.**

Article 40 Zoning Bylaw Amendment – Personal Wireless Communications Facility (Citizen Petition)

The Planning Board goes through a comprehensive process with Town staff in the vetting of zoning bylaw amendments and providing a deliberative process for the public to comment on the drafting of amendments. While the existing Wireless Overlay District may not have provided options for alternative sites as part of a recent application, the Planning Board does not support a citizen petition that has not been vetted or and does not provides any in-depth deliberative process for property owners and abutters to review and discuss the proposed amendment other than at a single public hearing or on the floor of Town Meeting. The Planning Board is not in support of this process. **The Planning Board voted in the majority to recommend no action on Article 40.**

Article 41 General Bylaw Amendment – Tree Preservation Bylaw

This Warrant Article is a housekeeping item to provide specific reference in the Tree Preservation Bylaw to the Protected Tree Impact and Removal Permit referenced in the Planning Board's Tree Preservation Bylaw Rules and Regulations. **The Planning Board unanimously voted to recommend affirmative action on Article 41.**